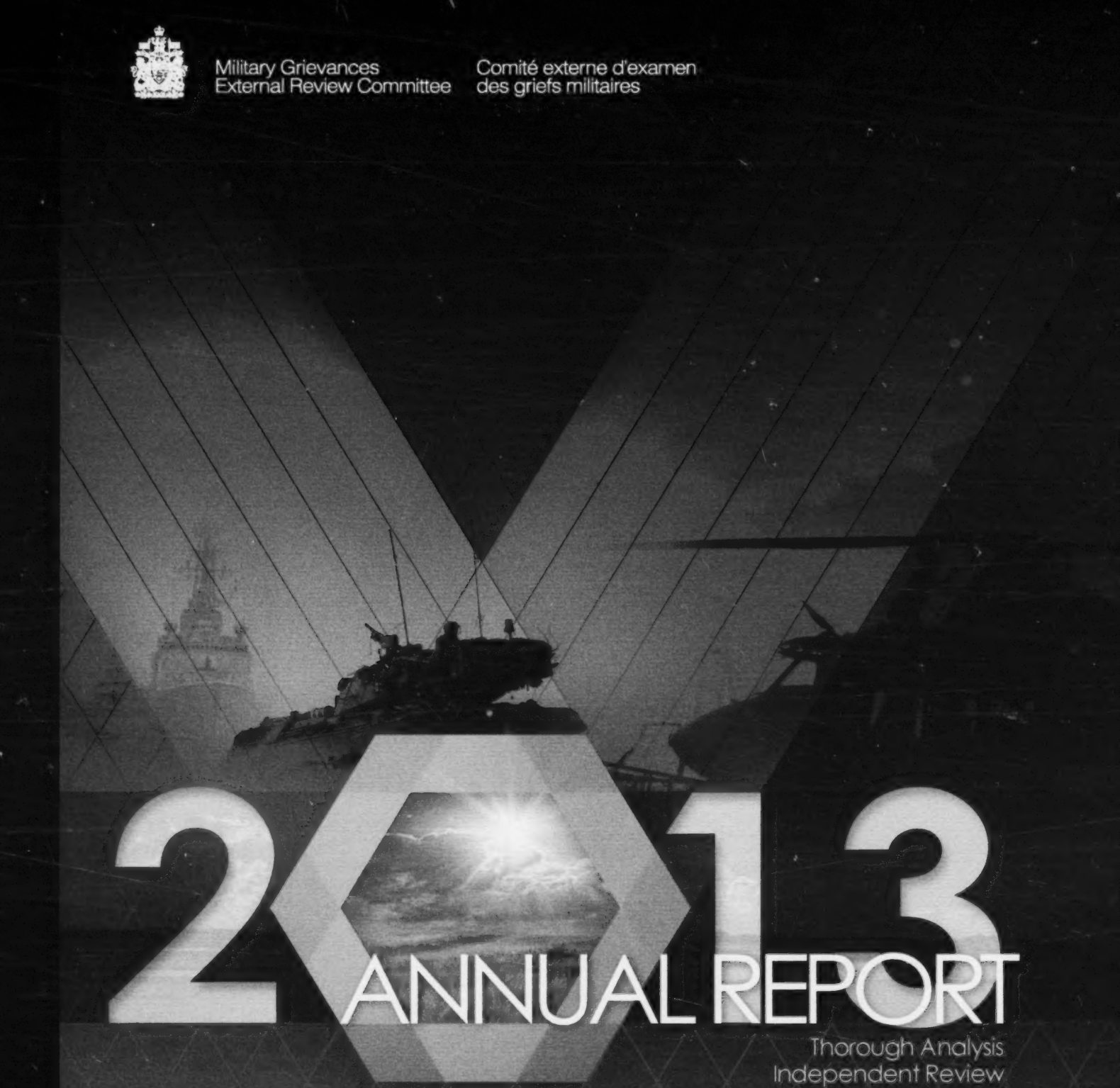
Military Grievances External Review Committee

Comité externe d'examen des griefs militaires



2013 ANNUAL REPORT

Thorough Analysis
Independent Review

Canada

Canadian Armed Forces photographic imagery
sourced from Department of National Defence's
Combat Camera Web site:
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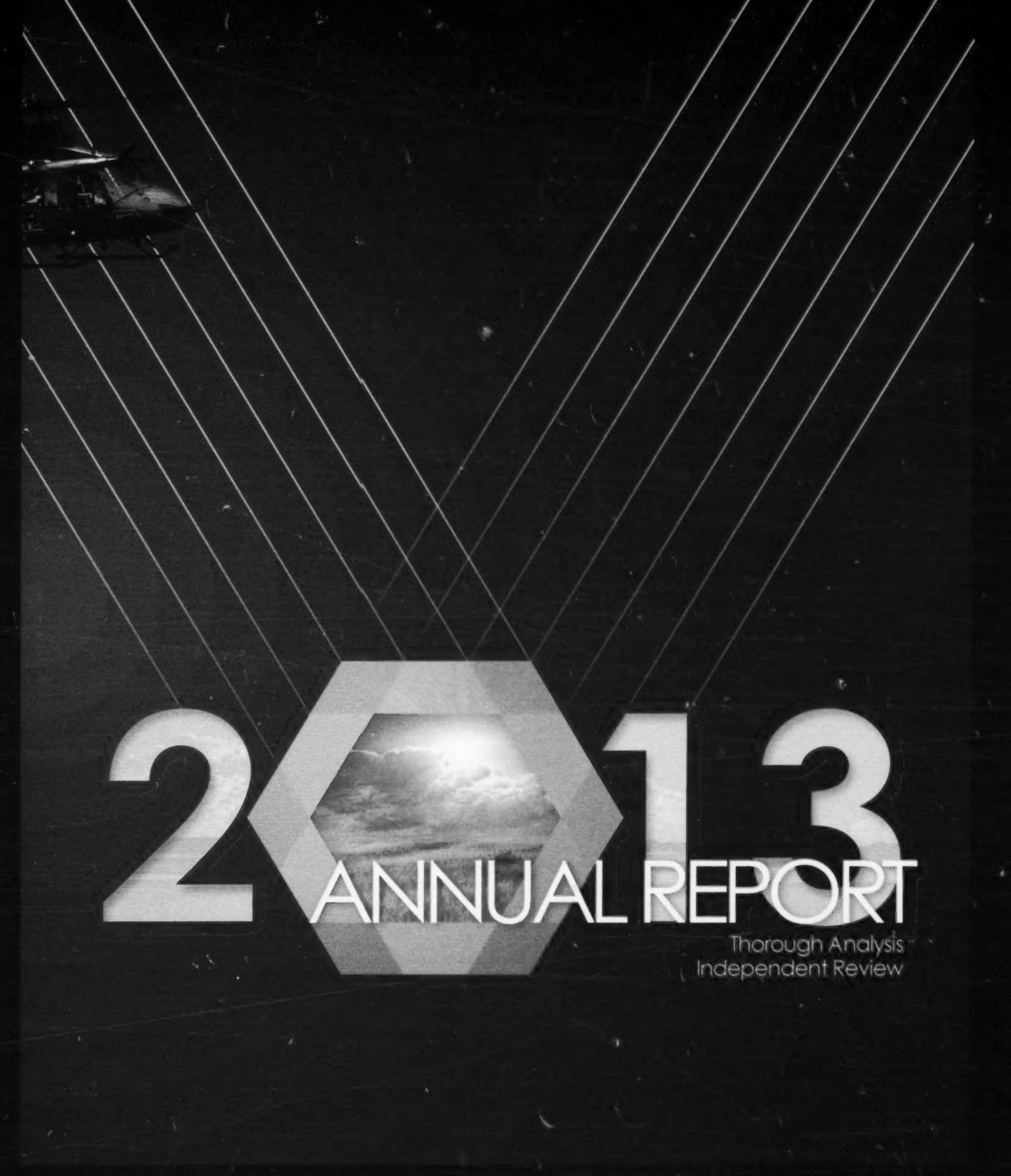
Military Grievances External Review Committee
Cat. No. DG1-1/2013
ISSN 1498-9972


2013
ANNUAL REPORT
Thorough Analysis
Independent Review

March 31, 2014

The Honourable Robert Nicholson, P.C., Q.C., M.P.
Minister of National Defence
National Defence Headquarters
MGen Georges R. Pearkes Building
101 Colonel By Drive
Ottawa, Ontario
K1A 0K2

Dear Minister,

Pursuant to section 29.28(1) of the *National Defence Act*, I hereby submit the 2013 annual report on the activities of the Military Grievances External Review Committee for tabling in Parliament.

Yours truly,

Bruno Hamel
Chairperson

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FOR THE PURPOSE OF THIS REPORT:

1. The new name of the organisation (Military Grievances External Review Committee) is used in this document even when the content refers to periods preceding 19 June 2013 when the name change became effective.

2. The acronyms most commonly used are:
   CAF: Canadian Armed Forces
   CDS: Chief of the Defence Staff
   MGERC: Military Grievances External Review Committee

MESSAGE FROM THE CHAIRPERSON

A YEAR OF RENEWAL

As the Chairperson of the Military Grievances External Review Committee, I am pleased to submit the Committee's 2013 Annual Report.

This report is the first submitted by our organization after its name was changed in June 2013. Before this change we were operating under the original name of Canadian Forces Grievance Board. We believe this designation was contributing to the erroneous impression that we were part of the Department of National Defence and the Canadian Armed Forces (CAF). In contrast, the new name summarizes our mandate and better describes our role as an independent administrative tribunal, specializing in the review of military grievances.

Another change you will see in this report is the increased focus on grievances reviewed by the Committee and the findings and recommendations (F&R) issued in 2013. In addition to the summaries of 130 F&R reports sent to the Chief of the Defence Staff and grievors last year, and ten recommendations of systemic nature, we are providing updates and discussing issues raised in previous reports (In Focus, p.8). These issues include the recurring questions of timeliness and procedural fairness.

In 2013, the Committee maintained its operational efficiency which was measured against a new and more challenging productivity standard.

There were also changes in the Committee's leadership last year with the retirement of the former full-time Vice-Chairperson, James Price, after ten years at the Committee. Mr. Price accompanied the organization on the road to maturity and recognition and the Committee benefitted from his extensive experience in military law and military affairs. He was responsible for overseeing the Committee's operations and was committed to optimizing its contribution to the timeliness and fairness of the grievance process. I am confident that his successor, Ms. Sonia Gaal[1], will carry on Mr. Price's legacy, while bringing a fresh perspective. Ms. Gaal is a seasoned professional with a wide and varied experience in complaint resolution. The Committee's staff and I are looking forward to working with her.

As you will see in the Operational Statistics section (p.20), in 2013 the Committee maintained its operational efficiency which was measured against a new and more challenging productivity standard[2]. I am pleased to report that we were able to maintain this efficiency while continuing to receive cases belonging to non-mandatory categories under a new referral

1 Ms. Sonia Gaal was appointed in December 2013 for a four year mandate, starting on February 1st, 2014.

2 The Committee had originally established a productivity standard of an average of six months to complete the review of a grievance. The standard was reduced to four months starting in January 2013 to account for more than 77% of timeline improvements between 2008 and 2012.

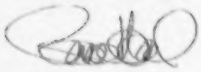
model[3] being evaluated by the CAF since 2011. The results of this model continue to be encouraging and the Committee is hoping it will be formally adopted in 2014.

In 2013, the Committee held its first ever public hearing. Hearings, private or public, are an effective tool to actively engage all parties in complaint resolution.

On the internal services level, the Committee continued to be fully engaged in government wide initiatives aimed at increasing effectiveness and ensuring alignment, while embracing changes and innovation. In particular, the Committee began the implementation of the new Performance Management directive for all employees. The Committee was also the first federal government department to deploy a virtual desktop system to all of its users. This innovative and long-term cost effective technology provides access to users' desktops anytime, anywhere, and from any device in a much more secure and robust environment.

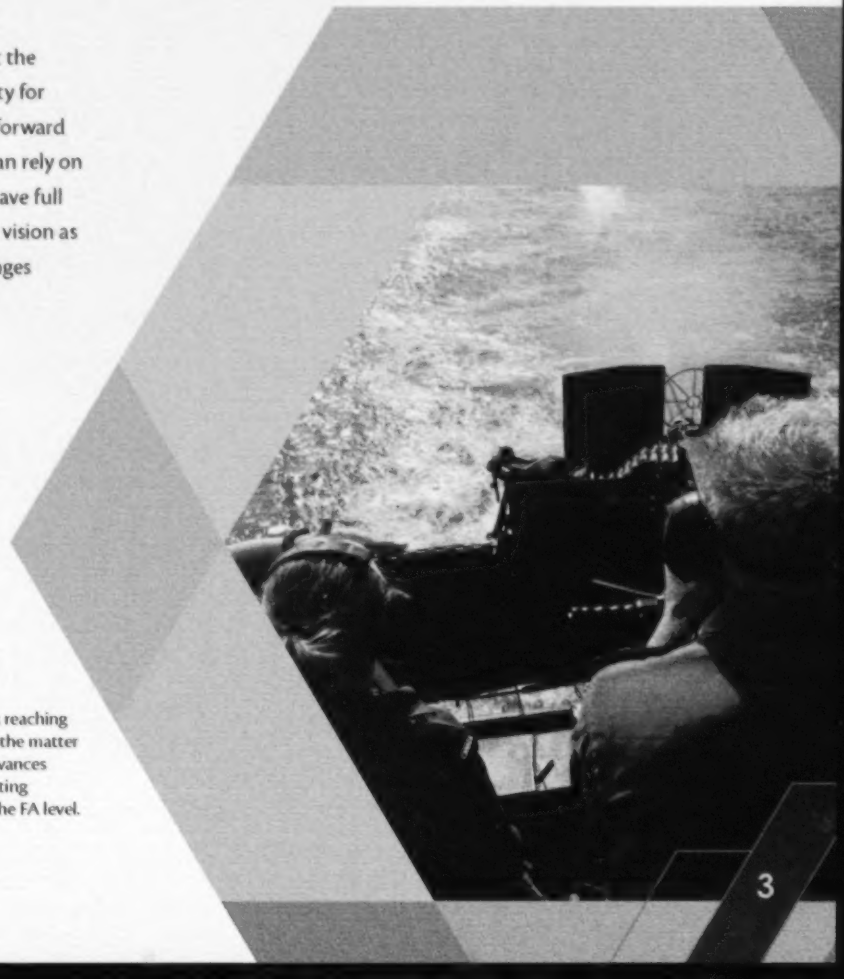
Finally, we have engaged staff in Blueprint 2020, so our employees' voices are heard in this unprecedented broad consultation of public servants about the future of the Public Service.

As I look back at last year's progress, I am pleased that the Committee considered every change as an opportunity for renewal and improvements. This is why I am looking forward to another year of accomplishments knowing that I can rely on an extraordinarily dedicated and professional staff. I have full confidence in their commitment to our mandate and vision as we work together to contribute to more positive changes within our organization and beyond.



Bruno Hamel
Chairperson

The Committee considered every change as an opportunity for renewal and improvements. We continue to work together to contribute to more positive changes within our organization and beyond.



3 Under this model, the Committee would review all grievances reaching the final authority (FA) level where the CAF are unable to resolve the matter to the satisfaction of the grievor. Currently, only four types of grievances are required to be referred for review by the Committee, representing approximately 40% of the total number of grievances that reach the FA level.

ABOUT THE COMMITTEE

THE GRIEVANCE CONTEXT

Section 29 of the *National Defence Act* (NDA) provides a statutory right for an officer or a non-commissioned member who has been aggrieved, to grieve a decision, an act or an omission in the administration of the affairs of the Canadian Armed Forces (CAF). The importance of this broad right cannot be overstated since it is, with certain narrow exceptions, the only formal complaint process available to CAF members.

Since it began operations in 2000, the Military Grievances External Review Committee (MGERC), originally named the Canadian Forces Grievance Board, has acted as the external and independent component of the CAF grievance process.

The Committee reviews all military grievances referred to it by the Chief of the Defence Staff (CDS), as stipulated in the NDA and article 7.12 of the *Queen's Regulations and Orders for the Canadian Forces*. Following its review, the Committee submits its findings and recommendations (F&R) to the CDS, at the same time forwarding a copy to the grievor; the CDS is the final decision-maker. The CDS is not bound by the Committee's report, but must provide reasons, in writing, in any case where the Committee's F&R are not accepted. The Committee also has the statutory obligation to deal with all matters as informally and expeditiously as the circumstances and the considerations of fairness permit.

The types of grievances that must be referred to the Committee are those involving administrative actions resulting in deductions from pay and allowances, reversion to a lower rank or release from the CAF; application or interpretation of certain CAF policies, including those relating to conflict of interest, harassment or racist conduct; pay, allowances and other financial benefits; and entitlement to medical care or dental treatment.

The CDS must also refer to the Committee grievances concerning a decision or an act of the CDS in respect of a particular officer or non-commissioned member. Furthermore, the CDS has discretion to refer any other grievance to the Committee.

MISSION

The Military Grievances External Review Committee provides an independent and external review of military grievances. In doing so, the Committee strengthens confidence in, and adds to the fairness of, the Canadian Armed Forces grievance process.

MANDATE

The Military Grievances External Review Committee is an independent administrative tribunal reporting to Parliament through the Minister of National Defence.

The Military Grievances External Review Committee reviews military grievances referred to it pursuant to section 29 of the *National Defence Act* and provides findings and recommendations to the Chief of the Defence Staff and the Canadian Armed Forces member who submitted the grievance.

COMMITTEE STRUCTURE

The Committee consists of Governor in Council (GIC) appointees who, alone or in panel, are responsible for reviewing grievances and issuing F&R.

Under the NDA, the GIC must appoint a full-time Chair, at least one full-time Vice-Chair and one part-time Vice-Chair. In addition, the GIC may appoint any other full or part-time members the Committee may require to carry out its functions. Appointments may be for up to four years and may be renewed.

Grievance officers, team leaders and legal counsel work directly with Committee members to provide analyses and legal opinions on a wide range of issues. The responsibilities of the Committee's internal services include administrative services, strategic planning, performance evaluation and reporting, human resources, finance, information management and information technology, and communications.

THE GRIEVANCE PROCESS

The CAF grievance process consists of two levels and begins with the grievor's Commanding Officer (CO).

LEVEL I: REVIEW BY THE INITIAL AUTHORITY (IA)

Step 1: The grievor submits a grievance in writing to his or her CO.

Step 2: The CO acts as the IA if he or she can grant the redress sought. If not, the CO forwards the grievance to the senior officer responsible for dealing with the subject matter. Should the grievance relate to a personal action or decision of an officer who would otherwise be the IA, the grievance is forwarded directly to the next superior officer who is able to act as IA.

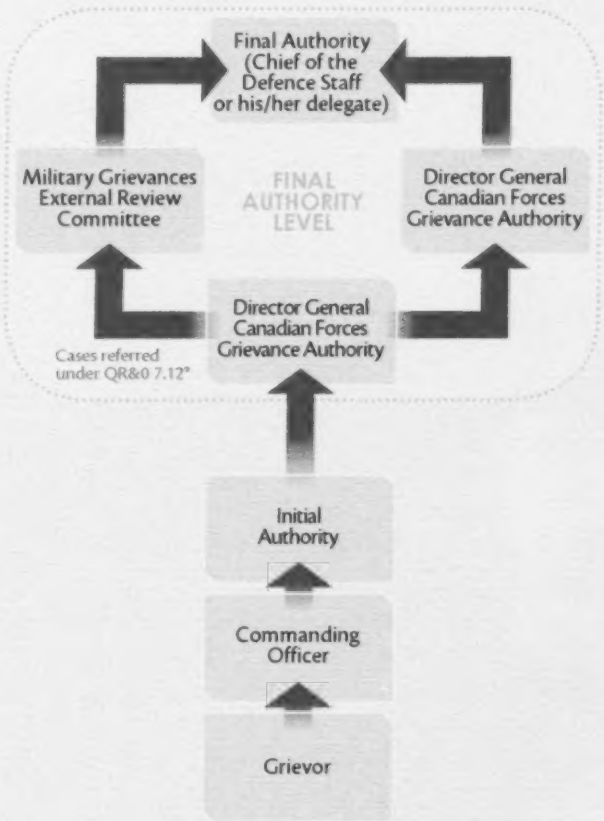
Step 3: The IA renders a decision and, if the grievor is satisfied, the grievance process ends.

LEVEL II: REVIEW BY THE FINAL AUTHORITY (FA)

Grievors who are dissatisfied with the IA's decision are entitled to have their grievance reviewed by the FA, which is the CDS or his/her delegate.

Step 1: The grievor submits his or her grievance to the CDS for FA level consideration and determination.

Step 2: Depending on the subject matter of the grievance, the CDS may be obligated to, or may, in his or her discretion, refer it to the Committee. If the grievance is referred for consideration, the Committee conducts a review and provides its F&R to the CDS and the grievor. Ultimately, the FA makes the final decision on the grievance.


Final Authority (Chief of the Defence Staff or his/her delegate)
Military Grievances External Review Committee
FINAL AUTHORITY LEVEL
Director General Canadian Forces Grievance Authority
Director General Canadian Forces Grievance Authority
Cases referred under QR&O 7.12*
Initial Authority
Commanding Officer
Grievor

*Article 7.12 of the *Queen's Regulations and Orders for the Canadian Forces* 7.12 sets out the types of grievances that must be referred to the Committee for review once they reach the final authority level.

What Happens When the Committee Receives a Grievance?

The Committee's internal review process consists of three steps: grievance reception, review, and the submission of findings and recommendations (F&R).

1

GRIEVANCE RECEPTION

Upon receipt of a grievance, the grievor is contacted and invited to submit additional comments or other documents relevant to his/her case.

2

REVIEW

The assigned Committee member holds a case conference where the grievance is reviewed and the issues are identified. The Committee member is assisted by a team leader, a grievance officer and legal counsel. If necessary, additional documentation is obtained and added to the file and subsequently disclosed to the grievor. Although rare, it is possible a hearing may be held.

3

FINDINGS AND RECOMMENDATIONS

The Committee member issues the final F&R which are then sent simultaneously to both the CDS and the grievor. At this point, the Committee no longer retains jurisdiction over the grievance. The grievor receives a decision directly from the final authority, which is the CDS or his or her delegate.

IN FOCUS

In this section, the Committee wishes to provide updates with respect to issues that continued to be cause for concern in 2013. In particular, the Committee remains concerned with the overall delays of the grievance process. The Committee is also troubled by the perceived unfairness of the process following the review of grievances by the Committee. Finally, the Committee continues to receive grievances dealing with a serious breach of procedural fairness and questions whether the grievance process can provide appropriate redress to the resulting prejudice.

DELAYS IN THE GRIEVANCE PROCESS

As reported in 2012 annual report, the Director General Compensation and Benefits (DGCB), one of the busiest initial authorities (IA), continued to experience significant difficulty in responding to grievors within the 60 days provided for in the regulations. The Committee was informed that in 2013 the DGCB had a backlog of about 240 grievances and still required from 10 to 20 months to adjudicate grievances. Unfortunately, the situation with respect to the Director Compensation and Benefits Administration (DCBA), who is responsible to adjudicate compensation and benefits claims from CAF members, is not different. In addressing over 1000 claims per year, the DCBA's response time is nearly 12 months. This means that CAF members may have to wait two years on average before their grievance reaches the final authority's (FA) level.

The Committee continues to be concerned with the overall untimeliness of the grievance process, especially given that this very issue was raised in 2003 by late Chief Justice Antonio Lamer in his report following the first independent review of Bill C-25, an *Act to amend the National Defence Act and to make consequential amendments to other Acts*.[1] In recommendation 74, late Chief Justice Lamer recommended that grievances be resolved within one year of the date of submission. The Committee continues to monitor the backlog situation at the IA level and understands that the Chief of Military Personnel is dedicating additional resources to address the issue. However, it is disappointing to see that 10 years after the submission of the Lamer Report, there has been little improvement in the grievance process timelines.

A PERCEIVED UNFAIRNESS FOLLOWING THE REVIEW OF GRIEVANCES BY THE COMMITTEE

As of 31 December 2013, approximately 130 grievances reviewed by the Committee were still awaiting an FA decision. Of these 130 grievances, more than 40 findings and recommendations (F&R) reports were issued by the Committee more than a year ago. Our statistics show that, on average, the FA decisions are being rendered approximately eight months after the Committee has completed its F&R. We understand that the causes for the delay at the FA are multifold. However, one is of particular concern to the Committee: grievances are being re-analyzed by the staff at the Director General Canadian Forces Grievance Authority (DGCFGA) after the Committee has completed its review.

At present, the DGCFGA has three functions: he administers the CAF grievance system on behalf of the Vice-Chief of the Defence Staff; he is the FA's delegate for those grievances that do not have to be referred to the Committee and he advises the CDS in those cases that are referred to the Committee. As such, the DGCFGA plays both an adjudicative and administrative role in the grievance process and has a number of responsibilities. For example, the DGCFGA staff supports and trains the IAs, reviews the IA decisions, and sometimes provides analysis of the file. The DGCFGA staff also decides which files will be

1 S.C. 1998, c. 35.

referred to the Committee for review, analyzes the Committee's F&R prior to the FA decision, and prepares the file for final adjudication by either the CDS or the delegate.

The Committee previously shared its concerns with the Honourable Patrick LeSage who was appointed by the Minister of National Defence to conduct the second independent review of Bill C-25. In his report, which was tabled on June 8, 2012 by the Minister, Justice LeSage indicated:

> *These multiple roles assumed by one entity can have the potential to, and sometimes do, create an apprehension of bias and procedural unfairness to the grievors.*
>
> *It is not appropriate to conduct further investigation after the [Committee] issues its Findings & Recommendations, even if, as the DGCFGA advises, the grievor is afforded the opportunity to respond.*

And as a result, one of Justice LeSage's recommendations reads as follows:

> *Where the DGCFGA disagrees with the recommendation of [the Committee] to grant a grievance, the DGCFGA should not be involved in any further review and adjudication of the grievance.*

The Committee agrees that the DGCFGA should not be involved in the review and adjudication of grievances when he or his staff disagrees with the F&R of the Committee. Those grievances should be adjudicated by a FA who has not been, personally or through his staff, involved previously with the administration, analysis or review of grievances. Allowing the DGCFGA to concentrate on the administration of the grievance process and appointing an officer other than the DGCFGA to adjudicate grievances on behalf of the CDS would not only help with the perceived unfairness of the current review process but would also, in our view, reduce timelines at the FA level.

While the Committee understands that the CDS and his/her delegate may require a team to help in processing and preparing grievances for adjudication, the Committee is of the view that, by re-analyzing the Committee's F&R prior to the final decision, the DGCFGA assumes a role that goes against the Comittee's mandate and affects the integrity, fairness and transparency of the process, as well as the timeliness of the final decision.

CAN THE GRIEVANCE PROCESS FIX A SERIOUS BREACH OF PROCEDURAL FAIRNESS?

In a number of grievances dealing with a serious breach of procedural fairness, particularly grievances relating to release decisions, the Committee and the CDS had, for a number of years, adopted the position that a breach could be cured by a subsequent review process, including the grievance process, if properly conducted. The reasoning was that, even if the decision-maker initially failed to provide procedural fairness, review authorities could remedy the breach by ensuring that all aspects of procedural fairness were met.

Accordingly, in grievances reviewed pre-2010, when the CDS found that the grievance process had cured a serious breach of procedural fairness and concluded that, for example, a CAF member's release was reasonable, the grievance would be denied and the original date of the release would stand. However, in cases where the release decision was found to be unreasonable, the grievor would only be offered re-enrollment because the *National Defence Act* does not yet give the CDS the authority to reinstate CAF members nor does it give him the authority to provide financial relief in these circumstances.

In 2010, the Committee reviewed and applied the Supreme Court of Canada decision in *Dunsmuir*, [2008] 1 S.C.R. 190, 2008 SCC 9, informing the CDS that it believed the previous practice described above is incorrect. In addressing the issue of procedural fairness in the public employment context in *Dunsmuir*, the Supreme Court of Canada explained:

> *The effect of a breach of procedural fairness is to render the dismissal decision void* ab initio *(Ridge v. Baldwin, at p. 81). Accordingly, the employment is deemed to have never ceased and the office holder is entitled to unpaid wages and benefits from the date of the dismissal to the date of judgment (see England, at para. 17.224). However, an employer is free to follow the correct procedure and dismiss the office holder again. A breach of the duty of fairness simply requires that the dismissal decision be retaken. It therefore is incorrect to equate it to reinstatement (see Malloch, at p. 1284).*
>
> *In addition, a public law remedy can lead to unfairness. The amount of unpaid wages and benefits an office holder is entitled to will be a function of the length of time the judicial process has taken to wend its way to a final resolution rather than criteria related to the employee's situation. Furthermore, in principle, there is no duty to mitigate since unpaid wages are not technically damages. As a result, an employee may recoup much more than he or she actually lost.*

In light of *Dunsmuir*, the Committee has recently found in its F&R that the lack of explicit authority by the CDS to re-instate CAF members who have been unlawfully released is of no consequence. When a release decision has been invalidated as a result of procedural unfairness, the Supreme Court of Canada has made it clear that the release should be considered void as a function of law, as outlined in *Dunsmuir*, and that the employment relationship with the CAF member should be held to have legally and technically never ceased. In other words, the Committee has expressed the view that a legislative authority to reinstate a CAF member in those circumstances is unnecessary, since the decision to release a CAF member in serious breach of their right to procedural fairness had to be considered void as if it never had occurred.

The Committee also explained that this does not mean that a CAF member whose release decision has been canceled could not be released again. However, the Committee explained that if such a decision was retaken, the release would then be effective on the date of the new decision.

The Committee has been applying this reasoning in its F&R since the end of the year 2010. The first final authority (FA) adjudication on this matter was received by the Committee in 2013, wherein the CDS informed the Committee that he disagrees with its position.

Referring to a Federal Court of Appeal decision in *McBride*[1], the CDS continues to be of the view that breaches of procedural fairness, even serious breaches that have led to the release of CAF members, can be cured through the grievance process. Effectively, the CDS decision means that a CAF member can be released from the CAF without procedural fairness as long as the subsequent grievance process is procedurally fair and as long as the FA determines that the decision to release was reasonable and justified. While the CDS did not specifically address the Committee's position or arguments regarding the implication of *Dunsmuir* on release decisions, it would appear that he disagrees that it has changed the way procedural defects, leading to release decisions, must be dealt with under the CAF grievance process.

With respect, the Committee is concerned that the position held by the CDS undermines the fundamental requirements to respect procedural fairness in the administrative process leading to the decision to release a CAF member. Particularly, it seems odd that the *Queen's Regulations and Orders for the Canadian Forces* and its ensuing policies require the issuance of a notice of intent to release, the disclosure of the administrative review file, and a reasoned decision prior to release while allowing for any or all of those same requirements to simply be omitted during the release process, as long as they are respected during the grievance process.

In the Committee's view, the position currently held by the CDS raises issues with respect to the regulations and the principles of natural justice and without clear direction from a superior court, one way or another, the Committee will be reluctant to change its position.

1 *McBride v. Canada (National Defence)*, [2012] F.C.A. 181.

"I am well aware of the difference between the advisory function of the [MGERC] and the chain-of-command function of [Director General Canadian Forces Grievance Authority - DGCFGA]. I fully understand that, merely because the [Committee] upheld my grievance and recommended payment of [benefits] from 2003 to 2011, payment will not be automatic and immediate... [However], I received an e-mail from DGCFGA advising me that my file has now been "assigned" to a grievance analyst. This is exactly five months after the [MGERC] report (which upheld my grievance) was completed and forwarded to DGCFGA and a year after my file was first forwarded to DGCFGA by the 'Grievance Administration Coordinator'."

A grievor, 2013

PUBLIC HEARINGS

Section 29.26 of the *National Defence Act* provides that the MGERC may determine the manner of dealing with grievances referred to its review, including the conduct of investigations and hearings: *"A hearing of the Committee is to be held in private, unless the Chairperson, having regard to the interests of the persons participating in the hearing and the interest of the public, directs that the hearing or any part of it be held in public."*

In 2013, for the first time since it began its operations in 2000, the MGERC conducted a public hearing as a manner of dealing with a grievance referred to it for review (case 2013-063; Course failure and Defence Administrative Orders and Directive (DAOD) 5039-6) - Delivery of Training and Education in Both Official Languages.)

The hearing was held in two parts (November 27-28 and December 20), at the MGERC offices. The primary goal of the hearing was to establish the facts in the grievance file and to determine whether the CAF respected their commitment, as expressed in the DAOD 5039-6, to provide the grievor individual training and education in the official language of her choice, while she was enrolled in the elementary course for public affairs officers.

The hearing was presided by the Committee's Chairperson, Mr. Bruno Hamel, in the presence of the grievor and her lawyer. Witnesses included former and current heads of the CAF public affairs training center, as well as the Department of National Defence's Director of Official Languages. The release of the Committee's findings and recommendations is expected in 2014.

SYSTEMIC RECOMMENDATIONS

The grievance system is to some degree a barometer of current issues of concern to CAF members. Several grievances on the same issue may indicate a poor policy, the unfair application of a policy or a policy that is misunderstood. In some cases, the underlying law or regulation may be out of date or otherwise unfair.

The Committee feels a particular obligation to identify issues of widespread concern and, where appropriate, provides recommendations for remedial action to the CDS.

The following section presents all ten systemic recommendations issued by the Committee in 2013.

TOPIC	ENVIRONMENTAL ALLOWANCES
ISSUE	Further to a prior systemic recommendation in the grievance file no. 2010-089, the Committee again examined the issue of the entitlement to the diving allowance while attending a career-related course exceeding six months. Under *Compensation and Benefits Instruction* (CBI) 205.34 – Diving Allowance, the allowance is payable to a qualified diver who is posted into a position authorized by the Minister. However, the allowance was denied to the grievor and other course attendees on the basis that, while attending courses lasting over six months, divers are not facing a continuous and substantial exposure to the environmental conditions for which the allowance is paid. In denying the grievance, the initial authority, the Director General Compensation and Benefits (DGCB), applied the provisions of Canadian Forces Administrative Order (CFAO) 205-25 – Environmental Allowances as well as the comments of a DGCB subject matter expert who stated that the CFAO reflected a 1976 Treasury Board (TB) study that required continuous and substantial exposure to qualify for the allowance. The Committee first confirmed that CBI 205.34 is the TB approved policy for the allowance and noted that the CDS has previously agreed with the Committee that a CFAO cannot serve to limit or expand the entitlement to a benefit in a manner not provided for in the applicable TB approved CBI. The Committee noted that CBI 205.34 was not ambiguous in word or phrase and that the CBI clearly does not cease the payment of the allowance during attendance on courses in excess of six months. The Committee observed that had TB wished to include such a stipulation, it could easily have done so. Finally, the Committee found that it is not open to the CAF, through the use of a deeming provision in a CFAO, to deny CAF members a benefit to which they would otherwise be entitled pursuant to a regulation such as the CBI.
RECOMMENDATION	The Committee reiterated its recommendation the CDS direct a review of the files of all CAF members who were denied the diving allowance on the basis of attending a course over six months in duration, in order to ensure that all attendees who were appropriately qualified and who were posted into a position authorized by the Minister receive the diving allowance. This would include the grievor in the previous CDS decision referred to above. The Committee also recommended that the CDS direct a review of the diving allowance and other similarly affected environmental allowances and their administrative directions to ensure that the administrative directions do not limit benefits authorized by the applicable CBI.

TOPIC	ENTITLEMENT TO ANNUAL LEAVE
ISSUE	In reviewing the case of a Reserve member on a shift schedule (he was asked to work six days followed by three days off, which included one day of annual leave), the Committee was concerned by the initial authority's finding that the cycle between being on duty versus being on leave was fair because it provided "adequate" or "sufficient" leave while meeting the operational requirement of the unit. The Committee indicated that it is not open to the Commanding Officer (CO) to determine leave entitlements on the basis of what he can afford while still fulfilling his operational mandate. Rather, the discretion available to the CO is the authority to grant or deny the leave. Leave entitlements are determined by the CAF leave policy. From the evidence on file, the grievor was not the only unit member unfairly required to use his annual leave due to the flawed duty/work schedule imposed by the CO. Further, the Committee was concerned that personnel tasked to this unit may not have been adequately compensated for their weekend, statutory holidays, and annual leave for a number of years.
RECOMMENDATION	The Committee recommended that the CDS order a review of: • the unit leave policy and work schedule to bring it in line with the provisions of the CAF leave policy; and • the leave records of all members of the unit for 2011 and 2012 to ensure that they are compensated for any unused annual leave owed to them.

TOPIC	RECOVERY OF OVERPAYMENT
ISSUE	Through the submission of this grievance, it came to the attention of the Committee that 110 CAF members in the Windsor/London area were mistakenly authorized transitional post living differential allowances by the Area Support Unit (ASU) London. The Commanding Officer (CO) advised the affected CAF members by e-mail that they had received benefits to which they were not entitled and which would be recovered. The question to be addressed was whether the recovery of these overpayments was justified in the circumstances. The Committee is of the opinion that there must be accountability and responsibility on the part of the CAF when these types of errors occur. There must be a balance between the expectation that CAF members be aware of the conditions governing their pay and benefits and the CAF members' entitlement to rely on the advice and approval provided by subject matter experts charged with such administration.
RECOMMENDATION	The Committee recommended that the CDS direct the appropriate authorities to prepare a Treasury Board submission recommending remission of the debts owed by all CAF personnel affected by the recovery direction issued by the CO ASU London.

TOPIC

CONTRADICTORY PROVISIONS IN DIFFERENT VERSIONS OF FLIGHT MANUALS

ISSUE

In its analysis of this case, the Committee examined the following three manuals in both their French and English versions:

- Training Program – Phase I – Primary Flight Training (Advanced) – Contracted Flight Training and Support (CFTS)16 (the "training plan");
- Flight Instructor's Handbook17 (the "Instructors Handbook"); and
- Aircrew Standards Handbook (the "Aircrew Handbook").

The Committee noted that although the versions consulted covered the same elements, a number of definitions differed from one handbook to the other. Given the importance of definitions in applying standards, the Committee felt that it was necessary to raise these differences.

The Committee recommended that the CDS order a review and harmonization of the different manuals and training guides, as well as the training plans, in order to ensure the consistency of the definitions of what constitutes major errors and minor errors, irrespective of the source used.

The Committee also recommended that the CDS order a review and harmonization of the French versions of the two guides for pilots and aircrew, as well as the Phase II Training Plan (Grob).

TOPIC

POLICIES ON THE USE OF SOCIAL NETWORKS

ISSUE

It is a reality of modern society that increasing numbers of Canadians, military personnel included, are using social networks and have access to them via a variety of electronic platforms, including wireless networks, both in the workplace and elsewhere. Current policies and directives of the CAF governing access to social networks are limited to the use of the Department of National Defence/CAF infrastructure. Case law indicates, however, that inappropriate comments posted by employees on social networks can lead to administrative and/or disciplinary measures, irrespective of the location, time or electronic platform used. The CAF should alert military personnel to the potential consequences they may suffer when posting comments on the social networks.

The Committee recommended that the CDS order updates to the applicable policies.

TOPIC	CONCEPT OF DISCREDIT
ISSUE	Existing policies and directives, notably articles 19.14 and 19.42 of the *Queen's Regulations and Orders for the Canadian Forces*, accord almost absolute discretion to a Commanding Officer (CO) in determining the potential for injury to the interests of the CAF and whether a CAF member's civilian job, personal activities or comments might bring discredit on the CAF. Such broad discretion opens the door to arbitrary and possibly divergent, unjust or disproportionate decisions by different COs. What may be deemed unacceptable by one CO may be perfectly acceptable to another, thus resulting in inequitable treatment.
RECOMMENDATION	The Committee recommended that the CDS order a review of the applicable policies and directives in order to provide guidelines on the concept of discredit.

TOPIC	REVIEW OF RETENTION POLICIES – 2013 UPDATE
ISSUE	Further to a prior systemic recommendation in grievance file no. 2011-110, the Committee again examined a grievance where a CAF member's period of retention (POR) was terminated early. Defence Administrative Orders and Directives (DAOD) 5023-1-Minimum Operational Standards related to Universality of Service, provides some guidance with respect to the POR that a CAF member may be offered over a maximum of three years when permanently unable to meet at least one of the minimum operational standards. In cases where the health of the CAF member changes, or where the circumstances surrounding his or her employment change so as to require a modification of the POR, the policy offers no guidance on the issue of ending the POR early. As the absence of relevant provisions in the policy can have serious repercussions for CAF members who may see their POR end early, the Committee had recommended that the CDS order the competent authorities to undertake a review of the applicable policy and draft a detailed procedure for terminating a POR. The CDS has yet to issue a decision on this systemic recommendation. After reviewing another grievance in which there was a failure to respect procedural fairness in the decision making process, the Committee wished to remind the CDS of the need for a review of the policy in question so that CAF members whose POR is at risk of being terminated can benefit from the basic principles of procedural fairness.
RECOMMENDATION	The Committee reiterated its recommendation that the CDS order a review of DAOD 5023-1 in order to ensure that CAF members whose POR is being considered for termination are accorded fair treatment.

TOPIC	CLARITY NEEDED REGARDING THE HARASSMENT POLICY
ISSUE	In a harassment related grievance file, the Committee noted that the initial authority (IA) had erroneously found that a proper situational assessment (SA) could not be completed because certain elements of a harassment complaint, as described by section 4.1.2 of the Harassment Prevention and Resolution Guidelines (the Guidelines), had not been provided. The Committee reviewed sections 4.1.2, 4.2 and 4.3 of the Guidelines and determined that it is not mandatory that a harassment complaint address all the elements of a complaint as described at section 4.1.2 of the guidelines. The Committee acknowledged that section 4.3 of the policy, if read in isolation, might appear to suggest that a complaint must contain all of the listed elements in order to proceed. However, the Committee explained that section 4.3 also makes it very clear that upon receipt of a complaint, a Responsible Officer (RO) must complete an SA, having no discretion to do otherwise. The Committee further explained that the words of a policy should be interpreted taking into consideration their entire context, including the scheme and intention of the policy. It was the Committee's view that the intent of section 4.1.2. is to provide the RO with sufficient information to apply the test set out in section 4.3. If, after conducting an SA, the RO is of the view that the complaint lacks the necessary information to determine whether the alleged actions meet the definition of harassment, the RO must proceed in accordance with section 4.5, which lists actions to be taken when the allegations do not meet the harassment definition. The Committee was also concerned by a statement made by the harassment subject matter expert who, while advising the IA, incorrectly indicated: *"...I recommend that a Harassment Investigation is not warranted due to insufficient facts and details, as well as no attempt to use the Alternate Dispute Resolution (ADR) process in the early stages of the complaint..."* The Committee explained that the Guidelines do not require the use of ADR before one is permitted to submit a complaint of harassment. Moreover, the Committee was surprised to see that a harassment subject matter expert would state that no investigation was required due to a lack of facts and details. This prompted the Committee to point out to the CDS that the intent, function, and execution of the SA process continues to be misunderstood and misapplied in the CAF. The Committee has raised this same observation a number of times previously (2009-092, 2012-122, and 2013-001) and the CDS has agreed that there is an issue with the execution of the SA step (2012-072 and 2012-075). This is a serious shortcoming because, when the assessment is completed incorrectly, such as it was in this particular case, it can result in unfairly denying a complainant an investigation, further compounding their situation. It was clear that many capable and well-meaning people continue to misread the policy.
RECOMMENDATION	The Committee recommended that the CDS direct that additional clarification and/or education be provided regarding the purpose and conduct of the SA. The Committee also recommended the CDS direct that the language found in the Guidelines pertaining to the minimum information required for complaint submission, as set out in provisions 3.3.2c, 4.1.2 and 4.3a, be reviewed and clarified, specifically noting that it is not mandatory to address all the elements of a complaint in all cases.

TOPIC	ENTITLEMENT TO POSTING ALLOWANCE UPDATE TO 2011-052
ISSUE	Paragraph 208.849(3)(f) of the *Compensation and Benefits Instructions* (CBI) and article 3.4.03 of the Canadian Forces Integrated Relocation Program (CF IRP) provide that CAF members are not entitled to receive a posting allowance when posted to their first place of duty after re-enrollment in or transfer to the Regular Force. The Committee found that the exclusion of re-enrollees from entitlement to the posting allowance is not equitable. In two similar cases (files no. 2011-052 and 2010-074), the Committee recommended that the CDS direct a review of the policies governing the posting allowance. The CDS agreed and directed that the Director General Compensation and Benefits (DGCB) review the policy. The DGCB provided the Committee with an update on the policy review indicating that the CF IRP, which authorizes relocation benefits, was currently being re-written and that changes would be effective once published. However, it could not be determined from the DGCB response whether this specific issue was addressed.
RECOMMENDATION	The Committee recommended that the CDS direct DGCB to specifically request that Treasury Board remove the exclusion for payment of a posting allowance to re-enrollees and transferees.

TOPIC	NATIONAL MONTHLY RATE OF SEPARATION EXPENSE - 2013 FOLLOW-UP
ISSUE	In a previous case (file no. 2012-002), the Committee reviewed a grievance where a CAF member's authorized separation expense (SE) had been reduced to a national monthly rate established by the Director Compensation and Benefits Administration (DCBA). The Committee had then explained that article 209.997 of the *Compensation and Benefits Instructions* (CBI) provides a formula for determining the maximum SE amount payable to CAF members on Imposed Restriction for lodging, meals, incidentals, and parking. The Committee had noted that in October 2008, the DCBA had issued an "Aide-Memoire" purporting to set a maximum monthly ceiling on SE entitlements at a national rate of $1,090 for all locations *"not otherwise specified."* The Committee found that the elements of the DCBA "Aide-Memoire" that were not consistent with the CBI should not have been relied on by the CAF to administer SE benefits. The Committee had therefore recommended that an audit be done for the grievor and all CAF members entitled to SE at the Canadian Forces Base (CFB) in question who were similarly affected by the improper imposition of the maximum monthly SE rate promulgated in the DCBA "Aide-Memoire." The CDS agreed that the monthly SE rate for unlisted locations had not been revised since 2003 and needed to be updated to reflect the increased costs of accommodations. The CDS directed the Director General Compensation and Benefits (DGCB) to update the unlisted monthly SE accommodation. However, the CDS did not address the Committee's systemic recommendation that the SE be re-calculated for all CAF members of the CFB in question. The Committee has since received a second grievance relating to the same issue, same time frame and same CFB. The Committee noted that it was very likely that there were other CAF members in a similar situation with recovery action ongoing or, at this late date, likely complete. Therefore, the Committee was of the view that an added emphasis was required to successfully resolve this matter for all affected CAF members, once and for all. Moreover, the Committee sought an update from the DGCB staff as to the CDS' direction to update the national rate and was advised that, due to Treasury Board negotiations being a Cabinet Confidence, DGCB could not acknowledge whether such a review was underway.
RECOMMENDATION	The Committee recommended that the CDS direct the DGCB to conclude their SE rate review without any further delay. The Committee also recommended that an audit be conducted of any cases similar to the grievor's and that they be administered and resolved in accordance with the CDS decision in the precedent case.

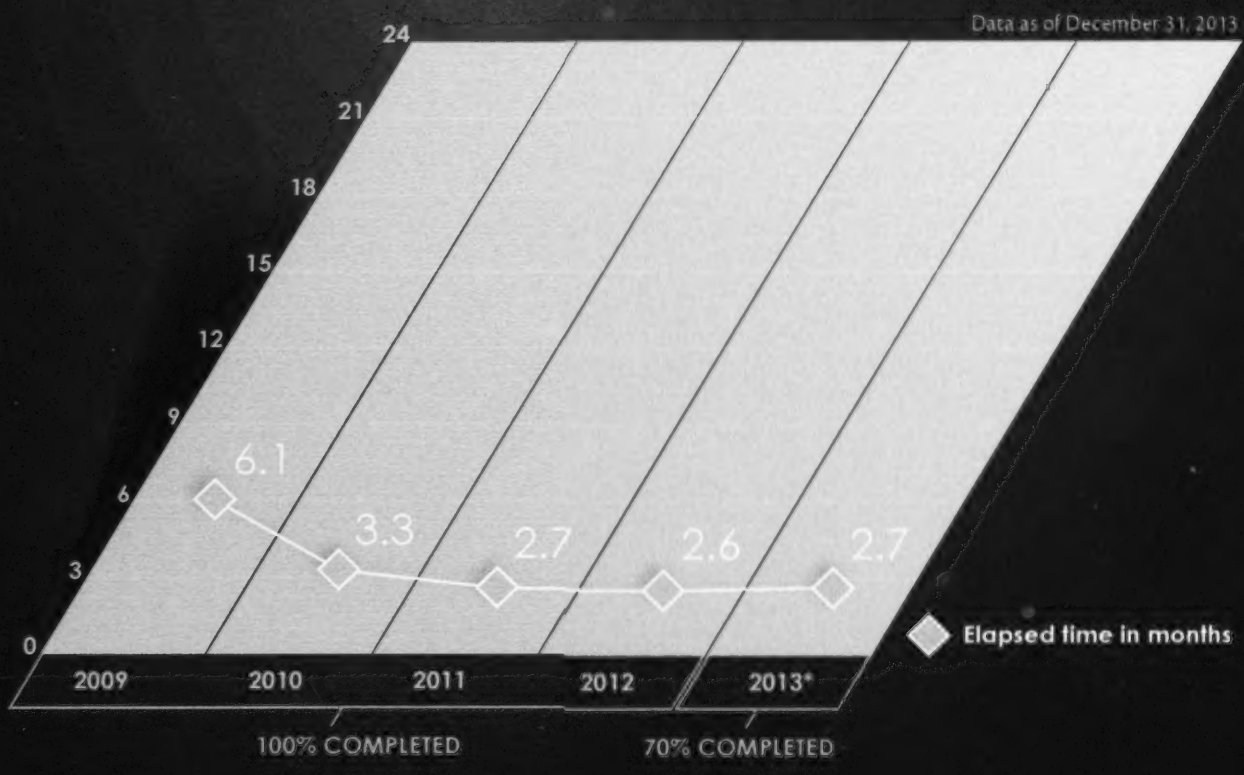
OPERATIONAL STATISTICS

A TIMELY REVIEW

To account for improved timelines achieved in recent years, the Committee changed in January 2013 its productivity standards from six to four months. The average time for completing the review of a grievance at the Committee was 2.7 months for cases received and completed in 2013.

Figure 1 shows the elapsed time taken on cases completed over the last five years.

FIGURE 1



* Not all cases received in 2013 have been completed as of December 31, 2013.
These statistics will be adjusted in future reports to include the balance of the cases received in 2013.

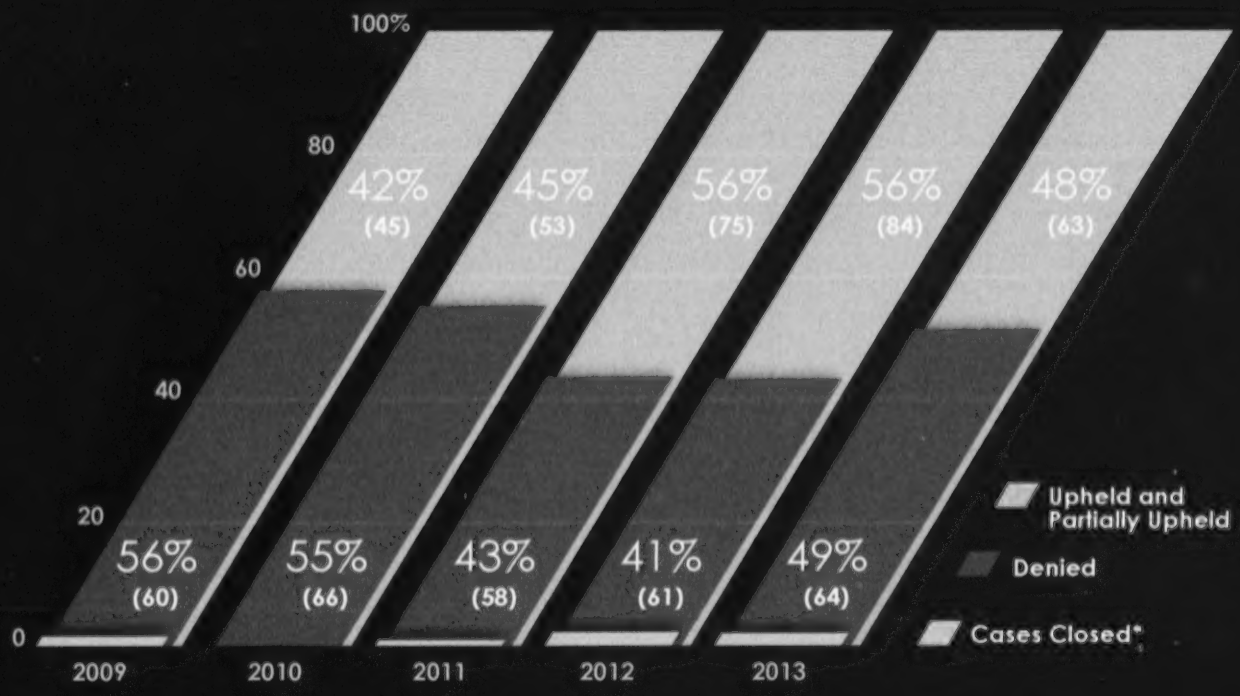
AN INDEPENDENT REVIEW

As an administrative tribunal, the Committee has the obligation to review every case fairly and impartially. Each file is reviewed carefully and on its own merits while taking into consideration the issues raised by the complaint, the relevant evidence and the submissions of both the grievor and the CAF authorities.

Between 2009 and 2013, the Committee issued findings and recommendations (F&R) on 639 grievances of which 50.1% (320 cases) had recommendations to uphold or partially uphold the grievance (i.e., supported the position of the grievor). In 48.4% (309 cases), the Committee recommended to deny the grievance.

Figure 2 sets out the distribution of the Committee's recommendations issued between 2009 and 2013 (639 cases as of December 31, 2013).

FIGURE 2



Note: Totals may not add to 100% due to rounding.
* Cases that were referred for which the Committee concluded that the matter was not grievable or the party had no right to grieve (e.g., a retired CAF member)

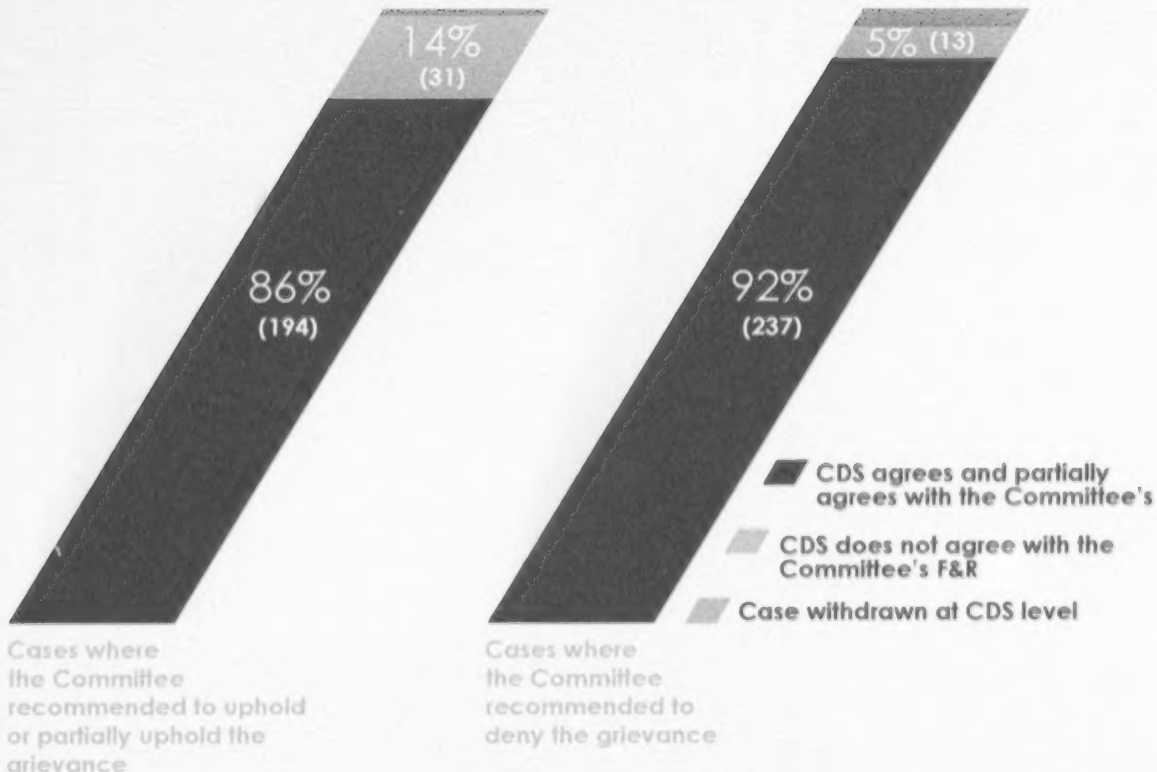
KEY RESULTS

In the last five years, the CDS rendered decisions on 483 cases out of 639 reviewed by the Committee. A total of 226 of these decisions concerned cases where the Committee recommended that the grievance be upheld or partially upheld. The remaining 257 decisions addressed cases where the Committee recommended that the grievance be denied.

In the 226 files where the Committee recommended that the grievance be upheld or partially upheld, the CDS agreed or partially agreed in 86% of the cases (194 files). For the remaining 257 cases for which the Committee recommended that the grievance be denied, the CDS agreed or partially agreed in 92% of the cases (237 files).

Figure 3 illustrates the distribution of the CDS decisions issued between 2009 and 2013, on each of these two categories as of 31 December 2013.

FIGURE 3


14%
(31)
86%
(194)
5% (13)
92%
(237)
CDS agrees and partially agrees with the Committee's
CDS does not agree with the Committee's F&R
Case withdrawn at CDS level
Cases where the Committee recommended to uphold or partially uphold the grievance
Cases where the Committee recommended to deny the grievance

Note: Totals may not add to 100% due to rounding.

ANNUAL WORKLOAD

COMPLETED GRIEVANCE REVIEWS

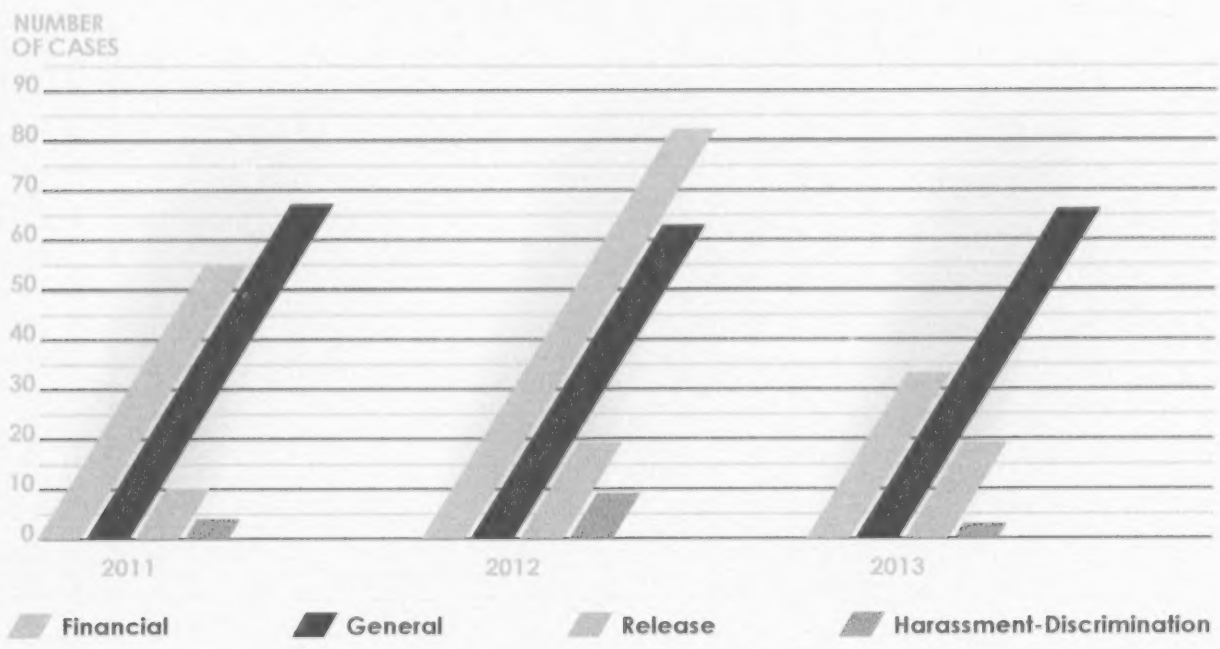
The following table outlines the distribution by recommended outcomes of the 130 cases completed by the Committee in 2013.

Grievance Categories	Denied	Partially Upheld	Upheld	No Jurisdiction	No Standing	Total
Financial	17	8	17	0	1	43
General	33	14	15	0	0	62
Harassment-Discrimination	3	3	1	0	0	7
Release	11	3	2	2	0	18
Total	**64**	**28**	**35**	**2**	**1**	**130**

CATEGORIES OF GRIEVANCES RECEIVED

Figure 4 shows the breakdown, by category, of the grievances received at the Committee in the last three years (financial, general, realease and harassment/discrimination). In 2013, discretionary referrals were classified under the general category.

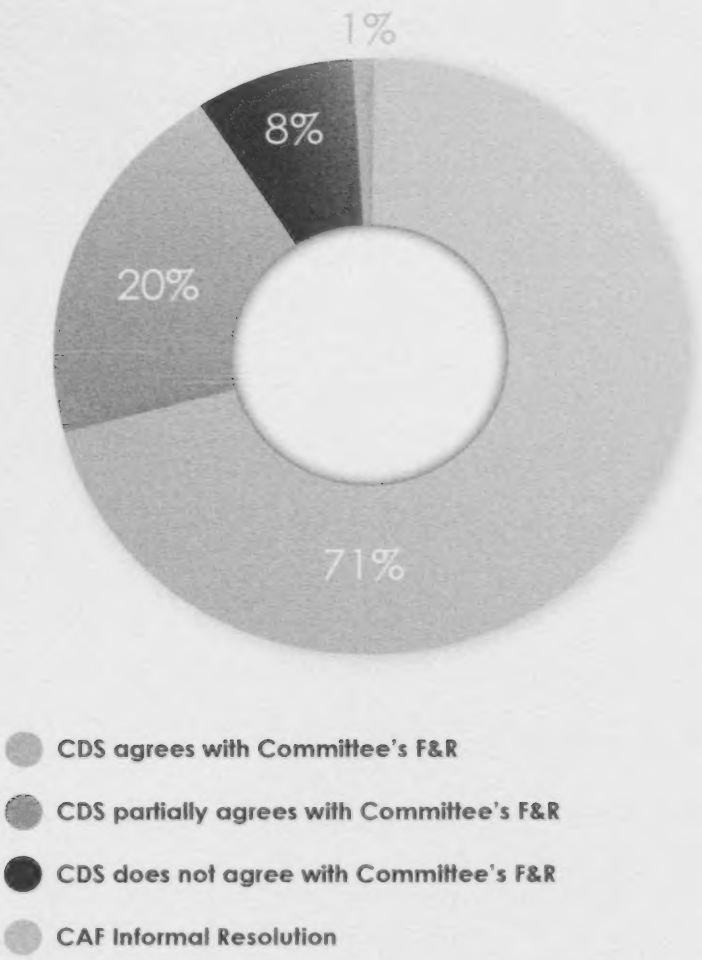
FIGURE 4



CDS DECISIONS RECEIVED IN 2013

The Committee received CDS decisions in response to 146 grievances. As shown in figure 5, the CDS agreed or partially agreed with the Committee's F&R in 91% of these cases and was in disagreement in 8% of these cases.

FIGURE 5



Note: Totals may not add to 100% due to rounding.

2013 FINDINGS AND RECOMMENDATIONS

The following section lists all 130 findings and recommendations reports issued by the Committee in 2013 and provides an overview of the types of grievances reviewed and the MGERC's position with regard to each case. Full summaries of these cases, including the decisions of the final authority, can be found on the Committee's Web site: www.mgerc-ceegm.gc.ca

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
1.	**2012-067**	**Administrative Action** **Remedial Measures**	The Committee concluded that the course report and its accompanying letter should remain on the grievor's file but recommended that they be annotated to mention that he was dealing with a difficult personal situation. The Committee concluded that the grievor's conduct warranted the imposition of an initial counseling and that it should be maintained since, according to the evidence, the grievor had violated basic ethical rules. The Committee concluded that the recorded warning was invalid because the supervisor lacked the authority to impose such measure. However, based on a second review of the circumstances, in light of the gravity and recurrent nature of the alleged conduct and given the grievor's military experience and rank, the Committee concluded that he should be placed on counselling and probation to ensure that he corrects his deficiencies without delay.	**Denied**
2.	**2012-088**	**Occupational Transfer** **Transfer from Regular Force to Reserve Force**	The Committee concluded that the military employment structure implementation plan that created the occupational group of Primary Reserve General Duty Officer specifically prohibited direct transfers from the Regular Force to the military occupation of Primary Reserve General Duty Officer. The Committee concluded that the refusal to transfer the grievor to the Primary Reserve within her specialty was reasonable under the circumstances. However, noting that the grievor had been employed as a general duty officer since her release from the Regular Force, the Committee recommended that the CDS normalize the grievor's situation by making a series of exceptions. The Committee recommended to the CDS that the grievor be transferred to the Supplementary Reserve on completing her current employment.	**Denied**
3.	**2012-102**	**Administrative Action** **Remedial Measures**	The Committee concluded that the course report and the accompanying letter should remain on the grievor's file but recommended that they be annotated to mention that he was dealing with a difficult personal situation. The Committee concluded that the grievor's conduct warranted the imposition of an initial counseling and that it should be maintained since, according to the evidence, the grievor had violated basic ethical rules. The Committee concluded that the recorded warning was invalid because of the supervisor's lack of authority to impose such measure. Based on a second review of the circumstances, in light of the gravity and recurrent nature of the alleged conduct and given the grievor's military experience and rank, the Committee concluded that he should be placed on counselling and probation to ensure that he corrects his deficiencies without delay.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
4.	**2012-122**	**Harassment**	The Committee concluded that the comments made by the grievor and the respondent, as well as all the relevant evidence and testimonies, were considered by the Harassment Investigator. The Committee was satisfied that the Responsible Officer's decision, that the allegations of harassment were unfounded, was reasonable.	**Denied**
5.	**2012-124**	**Acting While So Employed** **Promotion**	The Committee found that the grievor did not meet the minimum operational standards as per Canadian Forces General Order 060/00 for acting while so employed. However, the Committee found that the three driving factors behind the use of the CDS discretion, set out in paragraph 11.02(2) of the *Queen's Regulations and Orders for the Canadian Forces*, were present in the grievor's case: the grievor was employed in a position of a higher rank, the expectation was that the grievor would complete the full duties and responsibilities associated with the position, and the grievor fulfilled his duties and responsibilities until a Major was posted into the position.	**Partially Upheld**
6.	**2012-125**	**Component Transfer**	The Committee determined that the CAF had made an error in transferring the grievor to the Supplementary Reserve and that this error had unfairly led to the loss of his rank protection provided for by Military Personnel Instruction 03/08. The Committee also determined that the grievor had shown that he possessed over 60% of the required skills. The Committee recommended that the grievor's rank upon his release from the Regular Force be reinstated retroactively, that the pay he had received since he was transferred to the Reserve Force be adjusted accordingly, and that he be credited with the desired qualification.	**Upheld**
7.	**2012-128**	**Entitlement to Rations and Quarters at Public Expense** **Post Living Differential** **Separation Expense**	Based on the fact that the grievor was prohibited from moving his dependant, household goods and effects, the Committee concluded that he was entitled to rations and quarters at public expense and to post living differential during his first three postings, but not for his fourth posting since it was the grievor's personal choice not to move his dependant, household goods and effects to his new place of duty. The Committee found that the grievor was entitled to separation expense benefits during his first posting, but not his subsequent postings, as his dependant remained at the grievor's place of enrollment throughout and, as such, she could not be deemed to "normally reside" with the grievor at his place of duty.	**Partially Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
8.	**2012-130**	**Cease-Training** **Procedural Fairness** **Progress Review Board**	The Committee found that the convening of a Progress Review Board to consider the grievor's unsatisfactory flying progress was appropriate in the circumstances. The Committee was also satisfied that the evidence on file showed that the grievor had failed to meet the standard outlined in the relevant training plan within the allocated time. Thus, the Committee found that although the initial decision to cease training was procedurally unfair, after a *de novo* review, it was found to be a reasonable and proper course of action.	**Denied**
9.	**2012-132**	**Compensation for Disability - Reserve Force** **Pension Entitlements**	The Committee acknowledged that the grievor was injured during his Special Duty service, and again during his Class B service, but found that he was considered fit at the end of his Special Duty service, before he commenced the period of Class B service. Accordingly, the Committee found no basis on which the grievor's Class C service could be extended. The Committee concluded that, since the grievor was re-injured during his Class B service, he was in receipt of the appropriate rate of disability benefit.	**Denied**
10.	**2012-133**	**Personnel Development Review** **Personnel Evaluation Report**	The Committee concluded that the Battalion Commander's decision should have been rescinded, since he should not have served as initial authority considering that he had made the decisions leading to the recorded warning and the changes to the grievor's Personnel Evaluation Report. The Committee concluded that the Personnel Development Review, as written, did not in itself have any consequences for the grievor and used no wording that could be construed as criticisms. The Committee concluded that the Brigade Group Commander would most likely have granted all of the grievor's requests if he had been seized of the grievance and ordered the restoration of the original evaluation that predated the written warning.	**Partially Upheld**
11.	**2012-134**	**Intended Place of Residence** **Separation Expense**	The Committee concluded that the grievor's early move to an Intended Place of Residence (IPR) should never have been approved, as the grievor had neither received notice nor applied for release, as per Canadian Forces Administrative Order 209-30. However, due to the fact that it was erroneously authorized and the grievor acted in good faith, the Committee was of the opinion that the costs associated with this move should not be recovered. Having found that the grievor's posting should be treated as if the early move to an IPR had never occurred, the Committee found that the grievor was entitled to separation expense benefits for its duration.	**Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
12.	**2012-135**	**Compulsory Retirement Age** **Integrated Relocation Program** **Intended Place of Residence**	The grievor elected an early move to an Intended Place of Residence (IPR) in 2008, based on reaching his compulsory retirement age in 2012. The grievor then received a reimbursement for expenses related to a move in 2006 as part of his Integrated Relocation Program benefit with the exception of interest on a bridge financing loan. The Committee found that the Canadian Forces Integrated Relocation Program limits to five years the election period for early IPR prior to compulsory retirement age, and consequently the intent of Treasury Board was also to limit the reimbursement of relocation expenses to five years prior to compulsory retirement age as well.	**Denied**
13.	**2012-137**	**Class C Reserve Service**	The Committee found that the unit should have forwarded the grievor's application for an operational deployment to higher headquarters for consideration, either with or without support. The Committee concluded that the unit's use of inappropriate reasons as justification for not forwarding the grievor's application was demeaning and insulting. The Committee was surprised to see the Commanding Officer endorsing the manner in which his unit processed the grievor's request.	**Upheld**
14.	**2012-138**	**Harassment**	The Committee found that there was no requirement in the Harassment Resolution and Prevention Guidelines for an individual to be present to meet the criteria of *"directed at"* as required in the definition of harassment. The Committee found that, despite the alleged inappropriate comments not being made directly to the grievor, the comments could be construed as intimidating, demeaning, and could have caused humiliation. At face value, the Committee found that the allegations met the definition of harassment and recommended that an harassment investigation be conducted.	**Partially Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
15.	**2012-140**	**Home Equity Assistance** **Marketing Incentive**	Since the grievor had not shown the local market to have dropped by more than 20% nor had he made such a claim, the Committee concluded that he had received the maximum benefit to which he was entitled under the Home Equity Assistance provisions. The Committee also found that the grievor failed to meet section 8.2.12 of the Canadian Forces Integrated Relocation Program, which requires that the marketing expense claim be clearly identified on the original or any amended Property Listing Agreement and the Offer to Purchase document in order to be reimbursed from the custom funding envelope. The Committee concluded that even if the condition had been met, the grievor's custom and personalized envelopes were depleted of funds.	**Denied**
16.	**2012-141**	**Discretionary Ministerial Power** **Relocation Expenses**	The Committee found that the grievor should not be financially disadvantaged by the short notice posting. The Committee also concluded that the ministerial discretion under *Compensation and Benefits Instruction* 209.013(2) could be invoked to reimburse the grievor for four months of rent liability within the parameters of article 7.03 of the Canadian Forces Integrated Relocation Program. However, this was not the case for the finder's fee to a previous tenant relative to the new occupants, and the Committee found that this expense did not fall within the application of the policy.	**Partially Upheld**
17.	**2012-142**	**Claims against the Crown** **Release**	The Committee determined that the CAF failed in its duty to correctly administer the grievor's release and, as a result, the grievor suffered losses for which he should be compensated. The Committee acknowledged that the CDS has no authority to financially compensate the grievor for damages, but found that the grievor's file should be sent for review to the Director Claims and Civil Litigation with a full explanation, including the undisputed fact that the CAF committed a series of errors in administering the grievor's transfer and release.	**Denied**
18.	**2012-143**	**Grievable Issue under the *National Defence Act*** **Release - Reserve**	As a result of the final authority's decision on the grievor's previous grievance, the Committee found that it was not open to the initial authority (IA) to revisit this decision in the actual grievance. Consequently, the Committee found that there was no issue left to address in the present grievance. However, the Committee agreed with the IA that the grievor's date of release was incorrect and it was reasonable to change it.	**No Jurisdiction**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
19.	**2012-144**	**Class B Reserve Service** **Selection Board**	The Committee found that the Class B Reserve Service selection process lacked transparency and fairness, and observed that empowering Career Managers to fill vacant positions without running an open selection process requires guidelines and appropriate record keeping to guard against potential abuses. The Committee concluded that it could not determine whether the grievor would have been selected had the process been otherwise, but it recommended that the formation conduct a new selection process for the three original applicants.	**Partially Upheld**
20.	**2012-145**	**Medical Employment Limitation** **Promotion**	The Committee noted that paragraph 19 of the Canadian Forces Administrative Order 49-4 allows a promotion to be deferred for a CAF member otherwise eligible for promotion but assigned a temporary medical category. Accordingly, the Committee found that the grievor's situation met the conditions stipulated in this disposition, permitting his promotion to be antedated by up to 12 months from the date his restrictions were removed.	**Partially Upheld**
21.	**2012-147**	**Remedial Measures** **Termination Class B Reserve Service**	The Committee found that the grievor's initial counseling (IC) should be rescinded. In examining the recorded warning (RW), the Committee found that the incidents noted therein warranted a remedial measure. Given that the prior IC was not merited, the Committee found that the RW should be rescinded and a new IC issued in its place. Since the chain of command's reasons for the early termination of the grievor's Class B Reserve Service did not stand up under scrutiny, the Committee found that the termination decision was premature, unreasonable and contrary to the Canadian Forces Military Personnel Instruction 20/04 and Defence Administrative Order and Directive 5019-4.	**Partially Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
22.	**2012-148**	**Administrative Action** **Remedial Measures**	The Committee concluded that the course report and the accompanying letter should remain on the grievor's file but recommended that they be annotated to mention that he was dealing with a difficult personal situation. The Committee concluded that the grievor's conduct warranted the imposition of an initial counselling and that it should be maintained since, according to the evidence, the grievor had violated basic ethical rules. The Committee concluded that the recorded warning was invalid because of the supervisor's lack of authority to impose such measure. Based on a second review of the circumstances, in light of the gravity and recurrent nature of the alleged conduct and given the grievor's military experience and rank, the Committee concluded that he should be placed on counselling and probation to ensure that he corrects his deficiencies without delay.	**Denied**
23.	**2012-149**	**Remedial Measures**	The Committee found it unreasonable and incorrect for the Director Military Careers Administration to determine on a balance of probabilities that the grievor had committed an offence under the Criminal Code and, therefore, should be sanctioned for alcohol misconduct. Accordingly, this finding ought to be set aside and the counselling and probation quashed. The Committee further observed that if the CAF wishes to impose an administrative measure on CAF members who engage in misconduct while drinking to excess, then the CAF should only do so after a procedurally fair process which requires that allegations be proven based on the appropriate standard of proof: a fair process is still required and there must be reliable evidence which can be tested.	**Upheld**
24.	**2012-151**	**Initial Counselling** **Respect of Procedures/ Policies**	The Committee concluded that the grievor's initial counselling was not warranted. The Committee also found that the grievor was not entitled to reimbursement of the costs associated with the changes to his flights since he was not approved for temporary duty or leave at the time he incurred these expenses.	**Partially Upheld**
25.	**2012-152**	**Cease-Training** **Progress Review Board**	The Committee was satisfied that adequate procedural fairness was afforded; the grievor received a copy of the Progress Review Board recommendations and all witness statements before the Commanding Officer (CO) met with him and later rendered the cease-training decision. The Committee found the recommendations and the CO's decision to be reasonable. The Committee found that due process was followed when initiating the grievor's release and found no evidence the Administrative Review was conducted in an unfair manner.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
26.	**2012-153**	**Harassment**	The Committee found that a multinational contingent harassment policy was developed and distributed within weeks of the incident giving rise to the submission of the grievor's harassment complaint. The Committee noted that shortly after the alleged incident took place, mandatory briefings were included for all new personnel joining the multinational contingent. In addition, the grievor's Commanding Officer made recommendations to Canadian Expeditionary Force Command concerning pre-deployment harassment awareness training. Given the circumstances, the Committee found that these measures, both short and long-term, were reasonable in the circumstances.	**Denied**
27.	**2012-154**	**Reserve Force** **Temporary Duty Benefits**	Since the concept of voluntary service formulated in Instruction 20/04 did not match the grievor's situation, the Committee concluded that both the recommendation of the home unit Commanding Officer (CO) and the approval of the employing unit CO were unreasonable given the 175-kilometre distance the grievor had to travel one way to perform his additional duties at the employing unit. Considering the operational requirement as explained by the CO, the Committee concluded that it would be appropriate to place the grievor on temporary duty for his periods of employment at his home unit.	**Upheld**
28.	**2012-155**	**Initial Counselling**	The Committee found that the fact that counselling session schedule was not followed was not fatal to the process since the policy does not require a monthly briefing. Based on the Defence Administrative Orders and Directives 5019-4, the Committee found that the grievor's chain of command incorrectly extended the monitoring period past the scheduled three months, thus failing to terminate the initial counselling at the end of the three-month period regardless of whether the grievor had overcome his deficiency or not.	**Partially Upheld**
29.	**2012-156**	**CAF Drug Control Program** **Counselling and Probation**	The Committee concluded that the sample that had tested positive for metabolites of cocaine was that of the grievor. Considering that during the administrative review, the relevant factors were taken into account (grievor's first known involvement with drugs, performance, no impact on operations), the Committee found that the decision to place the grievor on counselling and probation was fair and just.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
30.	**2012-157**	**Reserve Force** **Special Commuting Assistance**	The Committee was of the opinion that the applicable direction required that cost effectiveness be considered when approving the special commuting assistance allowance, but once approved, the same direction also stated that this allowance is authorized for the duration of a CAF member's posting to the place of duty which gave rise to the entitlement. Consequently, the Committee found that the grievor was entitled to claim the special commuting assistance allowance for the period between 2003 and the end of his Class B service in 2011.	**Upheld**
31.	**2012-158**	**Harassment** **Initial Counselling**	The Committee found no evidence of bias, either real or apprehended, on the part of the Harassment Investigator or base authorities. The Committee concluded that the findings of the investigator were justified, transparent and intelligible in terms of the facts and the law. The Committee found that the harassment investigations were carried out fairly and correctly and in accordance with the policy and that it was appropriate to issue an initial counselling given that the grievor had demonstrated a conduct deficiency.	**Denied**
32.	**2012-159**	**Medical Record**	The Committee found no indication that the grievor's supervisor had improperly accessed the grievor's medical file. The Committee found, on the balance of probabilities, the grievor's allegations to be unfounded as there was no evidence of impropriety.	**Denied**
33.	**2012-160**	**Recorded Warning**	The Committee found that while the progress briefings did not adhere to the initial schedule, the recorded warning (RW) met the intent and requirements of the policy. The Committee found that the Defence Administrative Orders and Directives 5019-4 did not prescribe the frequency of progress-briefing sessions but rather that a CAF member be regularly briefed and provided with the necessary leadership and support to overcome his deficiency. The Committee found that a notice of closure must be provided in writing at the end of the monitoring period, but the policy did not require that it be done exactly on the same day. The Committee concluded that the RW was not aimed at chastising the grievor but rather to help him take note of and overcome a conduct deficiency.	**Denied**
34.	**2012-161**	**Acting Rank** **Promotion**	Given that the grievor's situation satisfied all the requirements for an acting/lacking promotion, the Committee concluded that he should have been promoted to Lieutenant-Colonel acting/lacking, backdated to the start of his Class B Reserve Service.	**Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
35.	**2012-162**	**Pay and Benefits** **Reserve Force**	The Committee found that the grievor was paid correctly during his Class C Reserve Service; there was no entitlement to Senior Appointment pay since, which is authorized under section 5 of chapter 204 of the *Compensation and Benefits Instructions* (CBI) and not applicable to Class C Reserve Service (governed by section 3). However, upon return to Class A Reserve Service, the Committee found that in accordance with CBI 204.53(8), the grievor was entitled to the Senior Appointment pay rate for the remainder of the one year period.	**Partially Upheld**
36.	**2012-163**	**Entitlement to Rations and Quarters at Public Expense** **Post Living Differential** **Separation Expense**	The Committee determined that the grievor was entitled to post living differential allowance and separation expense (SE) benefits upon being enrolled although his common-law spouse left their primary residence to pursue her studies in another province. However, the Committee found that the grievor was disentitled to SE benefits upon his subsequent posting on imposed restriction, as the grievor no longer had a dependant who was normally resident with him at his place of duty since his common-law spouse was living separate and apart from him. The Committee also found that the common-law relationship no longer existed as the parties continued, after seven years, to live apart from each other for other than military reasons. Finally, the Committee found that the grievor was entitled to quarters and rations without deduction while he was required to live in quarters for training purposes and was separated from his household goods and effects.	**Partially Upheld**
37.	**2012-164**	**Home Equity Assistance**	In the absence of a definition, the Committee concluded that the grievor's neighbourhood constituted a community for the purposes of the Canadian Forces Integrated Relocation Program. It has well-defined boundaries, as well as demographic data and information on programs and services. Furthermore, the Committee noted that the property assessments and activity reports pertinent to the grievor's situation showed a market in decline and saturated with condominiums. The Committee concluded that the evidence of the case showed that the real estate market in the grievor's community had declined by over 20% and that, accordingly, his case should have been referred to the Treasury Board Secretariat for review.	**Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
38.	**2012-165**	**Procedural Fairness** **Progress Review Board** **Release**	The Committee concluded that the decision approving the recommendation of the Progress Review Board should be rescinded because of breaches to the principles of procedural fairness. The Committee concluded that the decision to release the grievor was unreasonable because it was based on premature conclusions and on facts taken out of context. The Committee recommended that the CDS facilitate the re-enrollment of the grievor in the CAF, if the grievor so wished.	**Partially Upheld**
39.	**2012-167**	**Environmental Allowances**	The Committee found that *Compensation and Benefits Instruction* 205.34 - Diving Allowance contained no stipulation that would cease the grievor's entitlement to the diving allowance solely on the basis that he was on a course longer than six months in duration. Consequently, the grievor, who met the criteria, should have been paid the diving allowance. The Committee further concluded that Canadian Forces Administrative Order 205-25 was misapplied by the initial authority who should have granted the grievor the allowance for the first six months of the course.	**Upheld**
40.	**2012-168**	**Acting While So Employed** **Reserve Force**	The Committee, observing that the grievor held the substantive rank of Sergeant and that he was appointed to act in a Captain's position for 146 days, found that the grievor met the requirements set out in *Queens Regulations and Orders for the Canadian Forces* 3.05 to be granted an acting rank. While imperfect, the Committee concluded that an acting promotion to the rank of Warrant Officer at pay increment basic level would be a reasonable remedy that recognized the increased responsibilities imposed on the grievor during his acting appointment.	**Partially Upheld**
41.	**2012-169**	**Discrimination** **Fundamental Freedoms**	The Committee found that the grievor's belief (or non-belief) was protected under section 2(a) of the Canadian *Charter of Rights and Freedoms* (Charter) as it is inherently linked to the freedom of conscience and religion. The Committee recommended that the CDS grant redress and direct that prayers ought not to be part of changes of command parades or similar secular events, on the basis that the practice infringes upon section 2(a) of the Charter – Freedom of Conscience and Religion. The Committee found, however, that section 15(1) of the Charter, which deals with discrimination, could not be applied in the circumstances.	**Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
42.	**2012-170**	**Initial Counselling**	The Committee found that the single incident concerning the grievor's comments, which could be construed as being insubordinate, justified in itself the initial counselling (IC). In addition, looking at all of the incidents contained in the file, the Committee also concluded that the additional time and attention dedicated by the chain of command to the grievor did amount to an administrative burden and, consequently, issuing the IC was reasonable and justified in the circumstances. In regard to the monitoring period, the Committee found that the grievor was given ample and reasonable time to correct her deficiencies and the absence of five days out of a three month period did not invalidate the IC.	**Denied**
43.	**2012-171**	**Class B Reserve Service**	While it acknowledged that pay could not be authorized for service not rendered, the Committee concluded that the grievor had effectively served on Class B Reserve Service for the entire delay period and, therefore, should have received the pay and benefits for his service.	**Upheld**
44.	**2012-172**	**Class B Reserve Service**	The Committee noted that, in accordance with article 4.10 of Canadian Forces Military Personnel Instruction 20/04, Class B Reserve Service cannot commence until an authority document has been issued. In this case, no such document had been issued for the original start date. Accordingly, although the delay was unfortunate, the Committee found that the grievor was not entitled to Class B Reserve Service pay and benefits for the period of the delay.	**Denied**
45.	**2012-173**	**Cease-Training** **Progress Review Board**	The Committee found that although checklists do not necessarily provide a perfect input/output mechanism to award a score, they do provide the flexibility required by assessors to exercise their professional expertise and discretion. The Committee concluded that the decision to accept the recommendation of the Progress Review Board and to cease the grievor's training was justified in the circumstances.	**Denied**
46.	**2013-001**	**Initial Counselling** **Procedural Fairness**	The Committee found that the initial counselling was of no effect because the grievor had already component transferred before the measure could be issued. The Committee found that the decision to post the grievor from his unit was unjustified absent a proper and fair investigation into the allegations against him.	**Partially Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
47.	2013-002	**Annual Leave** **Class B Reserve Service** **Entitlement to Annual Leave**	The Committee examined the grievor's 60 days of Reserve Service on Class B where he did not work a normal Monday to Friday routine. During that period, the Committee calculated that a normal routine would include 16 weekend days and two statutory holidays. Thus, it would be reasonable for a schedule to contain a total of 18 non-working days, not including any annual leave. Therefore, the Committee found that the grievor should be compensated for six unused days of annual leave.	**Upheld**
48.	2013-003	**Promotion Criteria**	The Committee was of the view that upon graduation from Royal Military College, the grievor's medical category remained below that required for his field of employment and that neither his health nor medical category improved sufficiently to permit his promotion at any point prior to his medical release. Therefore, the Committee found that the decision to deny the grievor a promotion following his graduation was justified and in accordance with policy.	**Denied**
49.	2013-004	**Compassionate Travel Assistance**	The Committee found that recovery from a knee surgery is not a situation contemplated by *Compensation and Benefits Instruction* 209.51(4). The Committee found that the situation of the grievor's spouse did not require her transfer to a higher level of care facility. The Committee also determined that the fact the grievor was granted compassionate leave did not automatically trigger entitlement to Compassionate Travel Assistance.	**Denied**
50.	2013-005	**Door-to-Door Move** **Relocation Benefits**	The Committee found that the grievor had produced an effective and well-coordinated relocation plan for a door-to-door move as required by section 2.2 of the 2009 Canadian Forces Integrated Relocation Program. The Committee considered the early arrival of the grievor's household goods and effects and found that the ship's schedule and itinerary were not within his control. The Committee found that the grievor mitigated the circumstances immediately upon being informed of the early arrival of his household, goods and effects and concluded that he was diligent. The Committee recommended that the eight days of additional interim lodgings, meals and miscellaneous should be reimbursed from the grievor's core component.	**Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
51.	2013-006	**Accommodation** **Recovery of Overpayment Debt Write-Off**	The Committee was satisfied that the grievor acted in good faith when he signed his lease with its terms and conditions. The Committee found that the grievor relied on the advice of CAF subject matters experts to his detriment and, as such, was entitled to a retroactive rent ceiling increase for his posting and that the CAF was estopped from recovering the overpayments.	**Upheld**
52.	2013-007	**Acting While So Employed**	The Committee found that the grievor was eligible to be promoted acting while so employed (AWSE) since he was employed in a position that required a higher rank for an extended period of time. Further, since the grievor had also been employed in the same position the previous summer, the Committee applied section 29(5) of the *National Defence Act* and recommended that the grievor also be promoted AWSE for this period of service.	**Upheld**
53.	2013-008	**Promissory Estoppel** **Separation Expense**	The Committee concluded that the grievor was not entitled to separation expense benefits and that the CAF made an error by authorizing the benefits to the grievor. In this case, the Committee found that the doctrine of estoppel applied. The Crown should be estopped from recovering the overpayment from the grievor since it made an erroneous representation and the grievor relied on the subject matter expert and the representation to his detriment. The Committee found that the CDS has the authority to direct that the CAF be estopped from recovering the grievor's overpayment and that all amounts previously recovered from him be reimbursed.	**Upheld**
54.	2013-009	**Course Failure** **Release** **Remedial Measures**	The Committee found that the grievor did not make any argument that would warrant the removal of the recorded warning, and that this remedial measure did not hamper the grievor's component transfer. With regard to a transfer to another trade, the Committee noted that the grievor had twice unsuccessfully completed training for this trade, that he received several administrative measures and that he was removed from course at his own request. Therefore, the Committee found that the decision to deny the grievor an occupation transfer and the notice of intent to recommend his release were reasonable and justified in the circumstances.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
55.	**2013-010**	**Release - Compulsory**	The Committee concluded that despite the many remedial measures that were initiated by his chain of command, the grievor failed to acknowledge any personal deficiencies and never managed to overcome his shortcomings. The Committee was satisfied that the CAF had attempted to accommodate and assist the grievor to advance his career for almost 11 years and, ultimately, had decided that the grievor was simply unfit for further service. The Committee found that item 5(d) release decision was reasonable and justified.	**Denied**
56.	**2013-011**	**Education Reimbursement Primary Reserve**	Based on the existence of a DND 728 (Document Transit and Receipt), the Committee concluded that the grievor's education claim for her third academic year should be reimbursed similarly to her first two academic years.	**Upheld**
57.	**2013-012**	**Relocation Expenses**	The Committee consulted Brookfield Global Relocation Services who then agreed that the grievor had not been reimbursed for the associated taxes. Based on the revised calculation of the eligible amount, the Committee was satisfied that the grievor had now received the reimbursement to which he was entitled.	**Denied**
58.	**2013-013**	**Honours and Awards**	The Committee found that the grievor did not meet the eligibility criteria and was not entitled to receive the medal. In addition, while acknowledging that CAF members serving in North Atlantic Treaty Organization billets prior to the policy change received the medal, the Committee determined that this change was not unfair or discriminatory.	**Denied**
59.	**2013-014**	**Release - Compulsory**	The Committee considered which release might be more appropriate in the circumstances. There was general agreement that the problem behaviour and the grievor's general mental health were related. In line with the CDS guidance, the Committee found that there were mitigating factors suggesting that, on a balance of probabilities, the grievor's performance and conduct issues were beyond his control, justifying a release under item 5(d).	**Partially Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
60.	**2013-015**	**Family Care Assistance**	The Committee found that the wording of the *Compensation and Benefits Instruction* 209.335 is unambiguous in requiring that there be an absence from the family home of more than 24 hours in order to qualify for Family Care Assistance, which was not the grievor's case. The Committee also explained that temporary duty benefits are paid to CAF members for actual and reasonable expenses incurred when they were required to work outside of their normal place of duty, a situation that could not be compared with someone returning home each evening.	**Denied**
61.	**2013-016**	**Selection Board**	The Committee found that the decision to delay the grievor's second language evaluation was reasonable and justified, noting that the grievor's circumstances had been taken into account. The Committee also concluded that it was impossible to confirm whether the grievor would have attained the same results as his current language profile had he been tested upon completion of Progress Level 6, given that he benefited from a significant number of additional hours of training during Progress Level 7.	**Denied**
62.	**2013-017**	**Release-Conduct Performance**	Given the seriousness of the breaches to the principles of procedural fairness and the repercussions of the loss of employment, the Committee concluded that the Director Military Careers' decision to release the grievor should be rescinded. The Committee reassessed the evidence on file and found that the decision to release the grievor was premature and that the possibility of mandatory reassignment had not been studied.	**Upheld**
63.	**2013-018**	**Repatriation**	The Committee found that there were valid operational reasons to reduce the grievor's tour abroad given that he did not possess the language proficiency required for the position, through no fault of his. The Committee found that it was well within the superior's authority to recommend the grievor's repatriation, and that his actions were consistent with the proper exercise of command and supervision responsibilities.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
64.	**2013-019**	**Separation Expense**	Since the grievor had requested a divorce and agreed to entrust the care of his children to his ex-spouse, the Committee concluded that for the purpose of separation expense (SE) benefits, the grievor no longer had any dependants as of the date of signing of the agreement on corollary measures. The Committee was of the view that entitlement to SE required more than the mere existence of a marital or parental connection between a CAF member and his loved ones.	**Denied**
65.	**2013-020**	**Allowances and Benefits** **Promissory Estoppel**	The Committee found that the grievor was not entitled to claim the custodial expense benefit but that it was unjust to recover the money paid out to the grievor. The Committee found that the doctrine of estoppel applied. The Crown should be estopped from recovering the overpayment from the grievor since it made an erroneous representation and the grievor relied on the matter expert and the representation to his detriment. The Committee found that the CDS has the authority to direct that the CAF be estopped from recovering the grievor's overpayment and that all amounts previously recovered from him be reimbursed.	**Upheld**
66.	**2013-021**	**Education Allowance** **Promissory Estoppel**	The Committee found that the use of *Compensation and Benefits Instructions* chapter 12 in a manner to allow reimbursement of the boarding and lodging expenses for a CAF member posted from abroad, as opposed to within Canada, was unjustified and not in accordance with Treasury Board policy. However, the Committee concluded that the CAF was estopped from recovering the overpayment because the CAF and its representatives made erroneous representations to the grievor, who then relied on them to his detriment.	**Denied**
67.	**2013-022**	**Jurisdiction** **Right to Grieve**	The Committee concluded that the grievance was premature and that it did not meet the requirements of section 29 of the *National Defence Act* and chapter 7 of the *Queen's Regulations and Orders for the Canadian Forces*. The Committee found that the grievor had not been aggrieved by a decision, act or omission in the administration of the affairs of the CAF.	**No Jurisdiction**

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68.	**2013-023**	**Pilot Promotion**	The Committee found that the grievor was not eligible for promotion to Captain on either the original or the amended enter promotion zone dates as he had not yet achieved his wings standard. The Committee was not convinced that the grievor was unaware of the training delays or that he did not know that he was eligible for promotion only after he qualifies as a pilot. The Committee found no evidence that the grievor's voluntary occupation transfer was mismanaged.	**Denied**
69.	**2013-024**	**Class C Reserve Service** **Component Transfer** **Incentive Pay Category**	The Committee found that the grievor's military service, prior to his continuous interruption of service of more than five years, was not included as qualifying service for the purpose of determining pay increments. The Committee also found that while the civilian courses the grievor had completed might prove beneficial on his deployment, they should not play any role in the pay increment equation as the CAF places emphasis on skills and qualifications that are of military value. Although the Committee found that the CAF had failed in its duty to correctly administer the grievor's Class C service, it was unable to find that the CAF acted negligently or that the grievor suffered damages to his detriment.	**Denied**
70.	**2013-025**	**Release-Conduct Performance**	The Committee found that, despite the fact that the notice of intent was a recommendation, it was nonetheless a decision made to initiate the release process. The Committee was of the view that the grievor's conduct and behaviour showed contempt for the proper exercise of leadership and the respect owed to the chain of command, and found that these shortcomings were such that the release was reasonable and justified.	**Denied**
71.	**2013-026**	**Terms of Service**	The Committee found that the grievor was not misled and that, as a long-serving CAF member, he ought to have known the purpose of the Special Requirements Commissioning Plan and that it was his responsibility to familiarize himself with the program prior to accepting the offer.	**Denied**
72.	**2013-027**	**Cease-Training** **Progress Review Board**	The Committee found a lack of procedural fairness in this instance given that the CAF had ceased the grievor's training without first determining the facts. The Progress Review Board report was found to be so bereft of detail that the Committee concluded that it should be set aside. Likewise, the ceased training decision was found to be unreasonable given that it was based on the Progress Review Board. The Committee was of the opinion that the grievor's qualifications should be granted and his course report amended accordingly.	**Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
73.	**2013-028**	**Reserve Force** **Sub-Component Transfer**	The Committee concluded that the grievor was provided incorrect advice and that the offices responsible for processing her sub-component transfer failed to do so correctly by transferring her on the inactive list. The Committee also concluded that the grievor should have been transferred to the Cadet Organizations Administration and Training Service position upon reaching Compulsory Retirement Age. Finally, the Committee found that it was within the authority of the CDS to find the grievor's circumstances exceptional and to amend her sub-component transfer record to correct the error.	**Upheld**
74.	**2013-029**	**Class B Reserve Service** **Recovery of Overpayment/ Debt Write-Off** **Temporary Duty Benefits**	The Committee found that the grievor's status was wrongly identified and that she was the victim of a CAF administrative error. The Committee found that the grievor had been treated differently than her peers who, unlike her, received the Temporary Duty benefits while on Attached Posting status in accordance with the Aide-Memoire but faced no recovery action.	**Partially Upheld**
75.	**2013-030**	**Acting While So Employed** **Specialist Pay**	The Committee found that the grievor could not be promoted to substantive Major based on the grievor's merit list standing and the number of promotions in the grievor's occupation during the period in question. The Committee also found that the grievor was not entitled to specialty pay. However, the Committee found that the grievor met the criteria provided by the Canadian Forces General Order 060/00 - Acting Pay/Rank.	**Partially Upheld**
76.	**2013-031**	**Cease-Training**	The Committee found the decision to cease the grievor's pilot training to be reasonable and in accordance with policy, based on the grievor's failure of his Clear Hood 15 extra dual mission and his inability to achieve and maintain the required standard of performance within the allotted training time.	**Denied**
77.	**2013-032**	**Allowances and Benefits** **Pet Care Transportation Expenses**	The Committee found that the grievor took all reasonable steps given the circumstances and that he had no alternative but to arrange private care for his dog. However, the Committee found that the relevant Canadian Forces Integrated Relocation Program policy clearly required the use of a commercial provider before actual and reasonable pet care expenses can be reimbursed, a condition imposed by Treasury Board and for which the CDS has no authority to modify or make exceptions.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
78.	**2013-033**	**Medical Treatment** **Spectrum of Care**	The Committee found that the grievor was entitled to a fair and reasonable reimbursement of the real and admissible health-related travel expenses. Based on the surgeon's opinion, the Committee found that the medical procedures performed on the grievor were not purely cosmetic in nature and that they should entirely be covered under the CAF Spectrum of Care policy.	**Upheld**
79.	**2013-034**	**Land Duty Allowance** **Medical Employment Limitation**	The Committee considered the grievor's Medical Employment Limitations and found that the grievor was unable to meet minimum operational standards. The Committee found that the grievor was unfit to serve in any environment, and the decision to cease payment of the land duty allowance benefits was reasonable.	**Denied**
80.	**2013-035**	**Pilot's Backdated Promotion to Captain**	The Committee found that the grievor would benefit from the application of the CDS' proposal which suggest that, for pilots, promotion to Lieutenant should be based on achieving a minimum standard of qualification which the CDS defined as being upon completion of Phase II. The proposal results in pilots being promoted to Lieutenant prior to obtaining their Wings Standard, and removes the retroactive aspect of the promotion, thereby addressing the unintended negative financial consequences for some pilots of backdating their Lieutenant promotions to one year after commissioning.	**Partially Upheld**
81.	**2013-036**	**Medical Employment Limitation** **Promotion Criteria** **Universality of Service Principle**	The Committee determined that the grievor's medical condition precluded him from attempting physical fitness testing, that physical activity was limited in duration and effort and that the grievor remained in breach of the universality of service principle. With regard to his request for a retroactive promotion, the Committee found that there were no exceptional circumstances that would warrant the CDS to use his discretionary authority to waive promotion criteria.	**Partially Upheld**
82.	**2013-037**	**Transportation Expenses**	The Committee found that the condition of article 5.28 of the Canadian Forces Temporary Duty Travel Instruction - Disruption - Temporary Workplace Change, requiring that the grievor be advised in writing at least 30 days beforehand of her workplace change was not met. Therefore, she was entitled to reimbursement of her parking expenses up to a maximum of 60 days.	**Upheld**

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83.	**2013-038**	**Administrative Review Process** **Procedural Fairness** **Release - Medical** **Transition Assistance Program**	The Committee concluded that the grievor's right to a fair process was not infringed. The grievor knew that his release was being considered and he was given an opportunity to make representations during the process. The Committee also concluded that the grievor had been offered reasonable opportunities to take advantage of the vocational transition program and was not entitled to further service by policy.	**Denied**
84.	**2013-039**	**Overpayment** **Promissory Estoppel** **Separation Expense**	The Committee found that the grievor was not entitled to separation expense benefits since his spouse did not normally reside with him at his place of duty nor was she living separately from him for military reasons. However, the Committee found that the Crown was estopped from recovering the overpayment from the grievor since he relied on the subject matter expert's erroneous representation to his detriment.	**Upheld**
85.	**2013-040**	**Overpayment** **Promissory Estoppel** **Separation Expense**	The Committee concluded that the grievor was not entitled to the separation expenses benefits during the two periods in dispute. However, the Committee found that the Crown was estopped from recovering the overpayment from the grievor since he relied on the subject matter expert's erroneous representation to his detriment.	**Upheld**
86.	**2013-041**	**Terms of Service**	The Committee found that the Continuing Education Officer Training Plan in place at the time of the grievor's transfer was unrealistic. The Committee found that granting a three-year extension to the grievor's Terms of Service would be reasonable and would allow him to end his prolonged period of separation from his family while pursuing both his career and his degree.	**Upheld**
87.	**2013-042**	**Administrative Review** **Pension Entitlements** **Release - Medical**	The Committee found that the decision not to extend the grievor's release date to accumulate sufficient Reserve Service to be eligible as a participant to a pension was reasonable. The Committee reviewed the conduct of the Administrative Review – Medical Employment Limitations and concluded that the expeditious handling of it was not in any way unfair or unreasonable.	**Denied**

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88.	**2013-043**	**Post Living Differential**	The Committee found that the current manner of administering the boundary in the area where it bisects the grievor's Township was highly subjective and unfair. The Committee found that the grievor's residence should be considered to be within the boundary, as described in the amended version issued in May 2002, and that the grievor was entitled to receive the Post Living Differential benefit since this date.	**Upheld**
89.	**2013-045**	**Component Transfer**	The Committee found that the grievor was not eligible for a Component Transfer offer because he did not rank high enough on the merit list. The Committee concluded that there was no evidence on file to indicate that the grievor's Component Transfer application was mishandled.	**Denied**
90.	**2013-046**	**Counselling and Probation** **Remedial Measures**	The Committee found that a counselling and probation, as a remedial measure, may have been justified at the time the incident occurred but that it was no longer appropriate so long after the incident.	**Upheld**
91.	**2013-047**	**Promotion**	The Committee noted that the grievor's performance and potential at the Sergeant rank level had been assessed in three Personnel Evaluation Reports. Therefore, the Committee found that his file should be scored and compared to the lowest scoring Sergeant promoted to Warrant Officer from the Selection Board held immediately following his entry of promotion zone date. In the event that the grievor's file scores higher, he should be promoted from that Board. If unsuccessful, the grievor should be compared to his cohorts in the subsequent Selection Boards.	**Partially Upheld**
92.	**2013-048**	**Remission** **Transitional Post Living Differential**	The Committee found that the grievor was not eligible for Transitional Post Living Differential. However, since she relied on the expertise of pay office personnel, the Committee concluded that the grievor had recourse to the remedial provisions of remission set out in subsection 23(2.1) of the *Financial Administration Act*.	**Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
93.	**2013-049**	**Home Equity Assistance** **Integrated Relocation Program**	Since the market for single family homes did not have dropped by more than 20%, the Committee concluded that the grievor had received the maximum benefit to which he was entitled under the Home Equity Assistance provisions. However, the Committee found that in the absence of any specific exclusion regarding replacement residence benefits, the Canadian Forces Integrated Relocation Program article 2.9.01 could be applied to the grievor's case and that the two-year time limitation should be extended because his situation is exceptional.	**Denied**
94.	**2013-050**	**Remission** **Transitional Post Living Differential**	The Committee found that the grievor was not eligible for Transitional Post Living Differential, but she relied on the expertise of pay office personnel and, in the circumstances, have recourse to the remedial provisions of remission set out in subsection 23(2.1) of the *Financial Administration Act*, as it was unreasonable and unjust to collect the overpayment.	**Upheld**
95.	**2013-051**	**Dependants** **Education Allowance**	The Committee found that the grievor elected to have his children continue in the private education system upon return to Canada following a posting out of the country, rather than have them attend the "nearest local public school" as stipulated in *Compensation and Benefits Instructions* paragraph 12.1.02(3); hence the Committee concluded that the grievor was not entitled to an education allowance. The Committee found that Foreign Service Directives 33 and 34 did not apply.	**Denied**
96.	**2013-052**	**Remission** **Transitional Post Living Differential**	The Committee found that the grievor was not eligible for Transitional Post Living Differential. However, since she relied on the expertise of pay office personnel, the Committee concluded that the grievor had recourse to the remedial provisions of remission set out in subsection 23(2.1) of the *Financial Administration Act*.	**Upheld**
97.	**2013-053**	**Administrative Review** **Harassment** **Remedial Measures**	The Committee concluded that the actions and conduct of the Commanding Officer constituted harassment against the grievor, justifying the issuance of a recorded warning. The Committee also concluded that, given the decision of the initial authority most of which cancelled the corrective measures against the grievor, the administrative review for failing his counselling and probation was premature. The Committee was of the opinion that it would be inappropriate to credit the grievor with his Phase IV because he had not passed the course owing to his failure on certain performance objectives. Finally, the Committee concluded that the grievor should get another opportunity to complete his Phase IV re-course.	**Partially Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
98.	**2013-054**	**Course Failure** **Progress Review Board**	The Committee reviewed the three test failures assigned to the grievor, as well as the workings of the Progress Review Board, and found that the decision to cease the grievor's pilot training was reasonable under the circumstances.	**Denied**
99.	**2013-055**	**Recorded Warning**	The Committee found that under article 19.14 of the *Queen's Regulations and Orders for the Canadian Forces*, the nature of the grievor's comments on the social networks might bring discredit on the CAF and was contrary to the conduct and behaviour expected of a CAF member. The Committee concluded that imposing a recorded warning as an initial corrective was in keeping with Defence Administrative Order and Directive 5019-4 and was reasonable in the circumstances.	**Denied**
100.	**2013-056**	**Component Transfer** **Release**	The Committee found that the grievor's non-transfer from the Primary Reserve to the Supplementary Reserve upon release was a direct result of an error on the part of a CAF expert. The Committee found that the grievor had suffered an injustice and that he should have been paid for his service, but that the CAF could not cancel his release and back-date his transfer to the Supplementary Reserve.	**Denied**
101.	**2013-058**	**Harassment**	The Committee found that the Commanding Officer's order to the grievor not to discuss her personal relationship at work or within the confines of the Wing was not justified. The Committee found that the grievor's harassment complaint was not handled in accordance with the applicable policy, as the situational assessment was not conducted on the basis of the allegations but rather upon further fact gathering and unreasonable assumptions.	**Partially Upheld**
102.	**2013-059**	**Class B Reserve Service**	The Committee found that the grievor was led to believe that continuous Class B Reserve Service would be immediately available following an exercise. However, the Committee found that until an authority document and Route Letter had been issued as per article 4.10 of Canadian Forces Military Personnel Instruction 20/04 – Administrative Policy of Class A, Class B, and Class C Reserve Service, such an offer could not occurred.	**Denied**
103.	**2013-060**	**Married Quarters**	The Committee found it reasonable that the Canadian Forces Housing Agency could not supply the grievor with a single detached dwelling given the lack of housing options available. The Committee found that a non-smoking policy for these accommodations was not a plausible solution in the absence of a consensus from all involved government departments.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
104.	**2013-061**	**Component Transfer** **Pay**	The Committee found that the CAF had no latitude to deviate from the pay rates set out in the *Compensation and Benefits Instructions* and approved by the Treasury Board. Therefore, the Committee found that the grievor's Primary Reserve Service and Pay Increment had been correctly determined.	**Denied**
105.	**2013-062**	**Procedural Fairness** **Release - Medical**	The Committee found that there had been a breach of procedural fairness that was not cured by the decision of the Director Military Careers Administration to delay the grievor's release given that he had not taken into consideration new facts and did not re-examine the grievor's circumstances.	**Partially Upheld**
106.	**2013-064**	**Release - Conduct Performance**	Based on the information available, the Committee concluded that the grievor's circumstances could only result in attributing him a 5(f) release item. The Committee noted that the information concerning the grievor's medical condition could justify a change of his release item. However the grievor denied the disclosure of such information.	**Denied**
107.	**2013-065**	**Promotion**	When comparing the grievor's raw merit score in his military occupation against that of the number one candidate in the other amalgamated military occupation, the Committee found that the grievor would not have maintained his number one position. The Committee determined that the grievor had been treated fairly and in accordance with the applicable policy.	**Denied**
108.	**2013-066**	**Severance Pay**	The Committee found that the delay in sending the grievor on his Intermediate Leadership Qualification course was unreasonable and fully attributable to the CAF. The Committee concluded that the Payment in Lieu of Severance benefit at the rank of substantive Sergeant, rather than Warrant Officer, caused the grievor to suffer unfair financial harm.	**Upheld**
109.	**2013-068**	**Common-Law Partnership**	The Committee concluded that the grievor submitted an application for recognition of her common-law relationship, but her section head declined to process. The Committee disagreed with the statement that the CAF would not recognize that the grievor and her partner were living together if they maintained separate residences, noting that the Chief of Military Personnel Instruction 15/06 - Common-Law Partnerships clearly states that cohabitation may still exist in circumstances where a reasonable explanation is provided, which was the grievor's case.	**Upheld**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
110.	**2013-070**	**Leave Entitlement** **Medical Treatment** **Spectrum of Care**	The Committee concluded that traditional Aboriginal healthcare was not currently covered under the Canadian Forces Spectrum of Care policy, but noted that traditional Aboriginal healing is nonetheless accessible to CAF members in certain circumstances. The Committee concluded that the grievor's request for sick leave was justifiably denied as it was not supported by a Medical Officer, as required by the CAF leave policy.	**Denied**
111.	**2013-071**	**Harassment**	The Committee found that sufficient information had been provided and that the harassment criteria was met as defined in section 1.3 of the Harassment Prevention and Resolution Guidelines. The Committee found that the Responsible Officer erred in refusing to complete a situational assessment. The Committee determined that it was not mandatory for a harassment complaint submission to include all the elements of a complaint as described in section 4.1.2 of the Guidelines. The Committee found that even if the grievor was released from the CAF, an investigation should be undertaken.	**Upheld**
112.	**2013-074**	**Administrative Action** **Drug**	The Committee found that the drug testing order and any subsequent testing and results had to be disregarded, since there was no evidence that any of the criteria mentioned in chapter 20 of the *Queen's Regulations and Orders for the Canadian Forces*, for which a Commanding Officer (CO) can order a drug test, were met. The Committee found that the CO could not reasonably take administrative action against the grievor when there was no reliable evidence other than the mere fact of the charges.	**Upheld**
113.	**2013-076**	**Promotion**	The Committee found that, under the circumstances and in accordance with policy, neither a substantive nor an acting while so employed promotion was warranted.	**Denied**
114.	**2013-077**	**Remedial Measures**	The Committee found that the collision investigation's findings were reasonable and the administrative measure imposed to the grievor following this investigation, in this case remedial training, was justified.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
115.	**2013-078**	***Ex gratia*** **Waiver**	Noting that it was within the discretion of the Royal Canadian Navy to waive the required 12-month break between deployments, the Committee was unable to find that the cancellation of the grievor's operational tour was contrary to policy. The Committee found that the grievor was not entitled to reimbursement of her expenses under the *Compensation and Benefits Instructions* but that her case appeared to merit consideration for an *ex gratia* payment.	**Partially Upheld**
116.	**2013-079**	**Component Transfer** **Posting Allowance**	Based on *Compensation and Benefits Instruction* 208.849(3)(f) and on article 3.4.03 of the Canadian Forces Integrated Relocation Program, the Committee found that the grievor was not entitled to receive a posting allowance.	**Denied**
117.	**2013-080**	**Reserve Force Retirement Gratuity** **Severance Pay**	The Committee concluded that the grievor received the benefits to which he was entitled at the time: the Committee found that the grievor's Payment in Lieu of Severance Pay was less important because he had received, upon his transfer to the Regular Force, his Reserve Force Retirement Gratuity at the half-rate as per the *Compensation and Benefit Instruction* 204.54(4). The Committee also found that there was nothing unjust or unreasonable about the restriction imposed by the policy.	**Denied**
118.	**2013-082**	**Pay**	The Canadian Forces General Message 091/13 implemented retroactive increases to the pay rates of the grievor's new military occupation, such that upon transfer his new rate of pay was no longer below that which he was in receipt of prior to his occupational transfer. Consequently, the Committee found that the issue having given rise to the grievance was now moot.	**No Standing**
119.	**2013-083**	**Disclosure** **Release - Medical**	The Committee found that the grievor's waiver of disclosure in the Administrative Review process was done in accordance with his desire to release quickly to avoid his posting and was compliant with the relevant policy. The Committee found no evidence of coercion.	**Denied**
120.	**2013-085**	**Initial Counselling**	The Committee found that the grievor could not escape the imposition of a corrective measure because she was no longer in contact with the individuals with whom she displayed the inappropriate behaviour. As a result, the Committee found that an initial counselling was warranted and reasonable in the circumstances.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
121.	**2013-086**	**Harassment**	The Committee concluded that the actions and conduct of the Commanding Officer constituted harassment against the grievor, justifying the issuance of a recorded warning. The Committee also concluded that, given the decision of the initial authority most of which cancelled the corrective measures against the grievor, the administrative review for failing his counselling and probation was premature. The Committee was of the opinion that it would be inappropriate to credit the grievor with his Phase IV because he had not passed the course owing to his failure on certain performance objectives. Finally, the Committee concluded that the grievor should get another opportunity to complete his Phase IV re-course.	**Partially Upheld**
122.	**2013-088**	**Disability Compensation**	Since the grievor's injury was not covered under the Accidental Dismemberment Insurance Plan, the Committee concluded that the decision to deny his claim for coverage was justified and in accordance with the policy. The Committee also found that the CAF's Accidental Dismemberment Insurance Plan was very generous, provided protection similar to other plans offered by the Canadian government, and therefore did not need to be amended.	**Denied**
123.	**2013-090**	**Cease-Training** **Progress Review Board** **Release**	The Committee was satisfied that adequate procedural fairness was afforded: the grievor received a copy of the Progress Review Board recommendations and of all witness statements before the Commanding Officer (CO) met with him and later rendered the decision to cease the grievor's training. The Committee found the recommendations and the CO's decision to be reasonable. The Committee found that due process was followed when initiating the grievor's release and found no evidence that the Administrative Review was conducted in an unfair manner.	**Denied**
124.	**2013-097**	**Promotion** **Selection Board**	The Committee found that the grievor's ranking by the Selection Board was reasonable and appropriate in the circumstances, and that allegations of a prejudicial bias were not substantiated.	**Denied**
125.	**2013-098**	**Terms of Service**	The Committee found that the grievor's Commanding Officer had no obligation to offer new terms of service before June 2005, which is after the introduction of the new policy on 1 May 2005. Thus, at the time of making the offer, the only option under the circumstances was to offer an Intermediate Engagement of 25 years, an offer the grievor had accepted.	**Denied**

	MGERC File No.	Topic(s)	Summary of MGERC's Findings & Recommendations	Recommendation
126.	**2013-100**	***Canadian Forces Superannuation Act*** **Reserve Force**	The Committee found that there was no vested right to the practice of allowing former members of the Regular Force to be in receipt of a pension while on continuous full-time service in the Reserve Force.	**Denied**
127.	**2013-103**	**Personnel Evaluation Report**	In addition to the redress provided by the initial authority, the Committee found sufficient supporting evidence in the three draft Personnel Development Report to justify increasing the ratings of six additional factors.	**Partially Upheld**
128.	**2013-112**	**Medical Employment Limitation** **Release - Medical**	The Committee found that the grievor's Medical Employment Limitations' approved by the Directorate of Medical Policy were appropriate at the time. The Committee also found that since one of the Minimum Operational Standards related to Universality of Service, as per Defence Administrative Orders and Directives 5023-1, was not met, the decision to medically release the grievor was appropriate.	**Denied**
129.	**2013-114**	**Reserve Force Retirement Gratuity**	The Committee found that the grievor was not entitled to the Reserve Force Retirement Gratuity and that he had not been treated unfairly as he was not a member of the sub-component for which it was created.	**Denied**
130.	**2013-116**	**Separation Expense**	The Committee found that this grievance should have been resolved in accordance with recent CDS direction and separation expense calculations in a similar precedent file.	**Partially Upheld**

"The Committee can stick to the facts without policy or political considerations that may cloud the judgment of others."

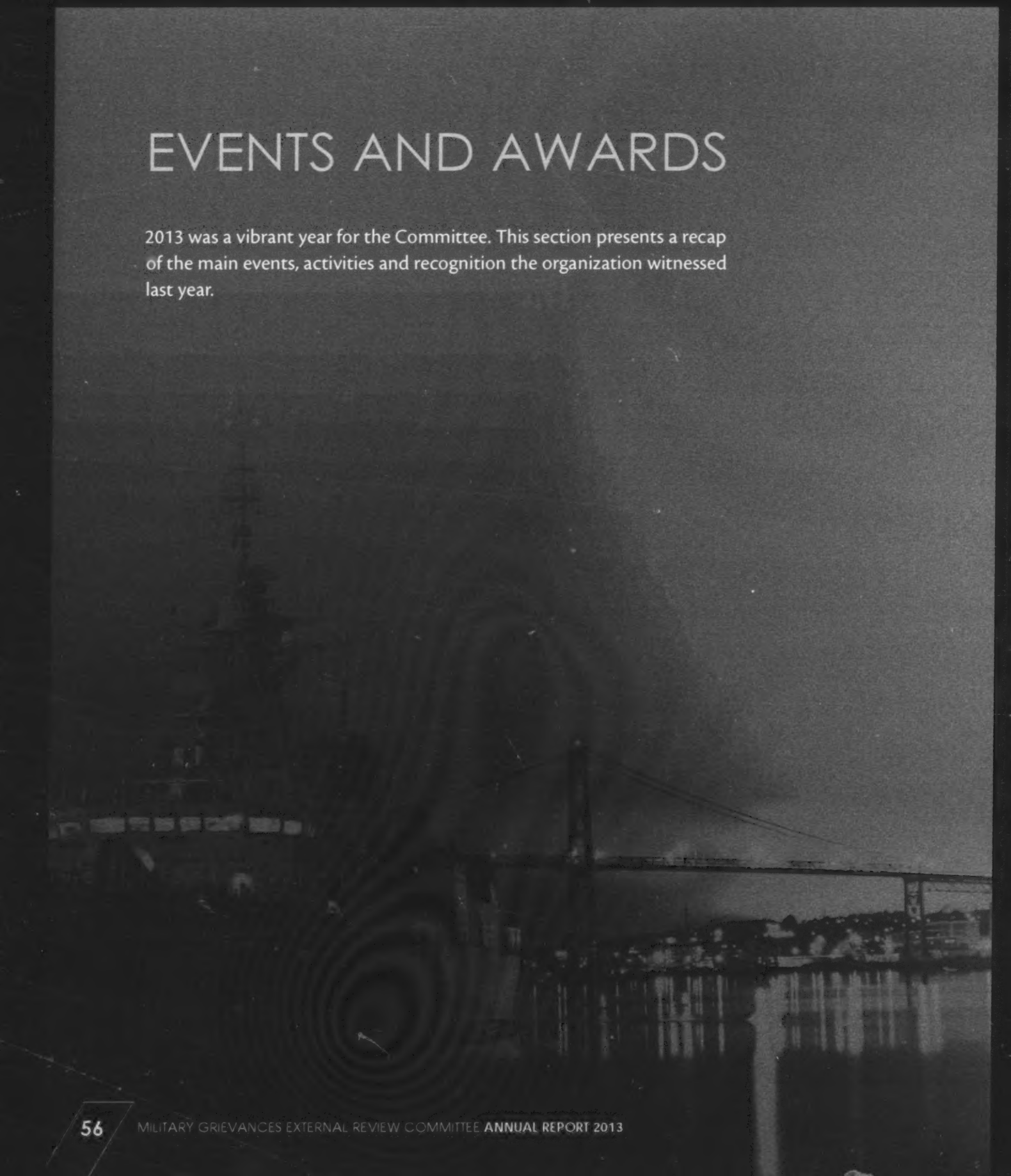
A grievor, 2013

"The Committee did a good job of getting to the essence of a complex issue. The Findings and Recommendations were exceptionally well presented and easy to follow from start to finish, which was important given the fact it was a 16 page document."

A grievor, 2013

EVENTS AND AWARDS

2013 was a vibrant year for the Committee. This section presents a recap of the main events, activities and recognition the organization witnessed last year.



THE CANADIAN FORCES GRIEVANCE BOARD BECOMES THE MILITARY GRIEVANCES EXTERNAL REVIEW COMMITTEE

The name change became effective on June 19 by enactment of Bill C-15 (*An Act to amend the National Defence Act and to make consequential amendments to other Acts*). *"This is an important change we have been pursuing for several years to eliminate a common misconception that we are an organization internal to the Department of National Defence and the CAF,"* said the Chairperson. *"The new name will lead to a better understanding of the specific and unique role for which this department was created – to be the external and independent component of the military grievance process,"* he added.

NEW FULL-TIME VICE-CHAIRPERSON APPOINTED

Ms. Sonia Gaal's appointment was announced by the Minister of National Defence, the Honourable Robert Nicholson, on December 20. She was appointed for a four-year term starting on February 1st, 2014. Ms. Gaal has lengthy experience in labour litigation and mediation, both at the provincial and federal levels. *"Ms. Gaal has dealt with complaint resolution in various environments; she will bring a fresh perspective and complement the expertise the Committee has acquired since it began operations in 2000,"* said the Chairperson.

CHIEF OF THE DEFENCE STAFF VISITS THE COMMITTEE

"I would like to thank all of you for your continuous support and tremendous work for the benefit of CAF members," said General Thomas J. Lawson addressing staff during a visit to the Committee on October 30. He praised the Committee's efforts in highlighting broader problems which may exist in the grievance process by sharing systemic recommendations with the CDS. *"With your help, in the past five years, 40 systemic recommendations were identified and addressed. The Committee is fulfilling its critical challenge function stupendously,"* he said.

COMMITTEE DELEGATIONS VISIT CAF BASES

The first visit included the bases of Bagotville and Valcartier from 29 April to 2 May and was *"a great success and an opportunity for great interaction"* with CAF members, said the Chairperson. *"One information session lasted almost three hours during which participants asked questions on issues such as the impact of the reduction of Reserve Class B employment, the de-linking of Rations and Quarters, the door-to-door moves, and benefits,"* he added.

The second visit included the bases of Goose Bay and Gander from September 23-26. The delegation met senior leadership and various stakeholders involved in the grievance process, and held town hall meetings. *"At both bases, our interactions with senior leadership, staff officers and personnel about issues and concerns related to the work conditions in this unique environment were very informative,"* said the Chairperson.

MGERC's delegation at Goose Bay

FORMER VICE-CHAIRPERSON AWARDED THE CANADIAN FORCES MEDALLION FOR DISTINGUISHED SERVICE

The CDS, General Thomas J. Lawson, presented the distinction to James Price on November 29. The medallion is awarded on behalf of the CAF to recognize *"service of a rare and exceptionally high standard"* (which accrues great benefit to the CAF as a whole) performed by persons other than active military personnel. It is the highest distinction that the CDS can award to a civilian. *"I am delighted that, through my work, I was able to make a difference and take great pride in the work that is being done at the MGERC for the benefit of all men and women of the CAF,"* said Mr. Price who retired on December 8, after ten years with the Committee.

HUMAN RESOURCES MANAGER RECEIVES TEAM LEADERSHIP AWARD

On May 22, Sylvie Lemay was awarded the 2012 Michelle C. Comeau Human Resources Team Leadership Award, as one of the Executive Board members of the Personnel Advisory Group (PAG). The award recognizes leadership and excellence in human resources management in the federal public service. The PAG allows the heads of human resources of small departments and agencies to obtain information on government initiatives, share best practices and harmonize the implementation of their mandates with the overall direction of government.

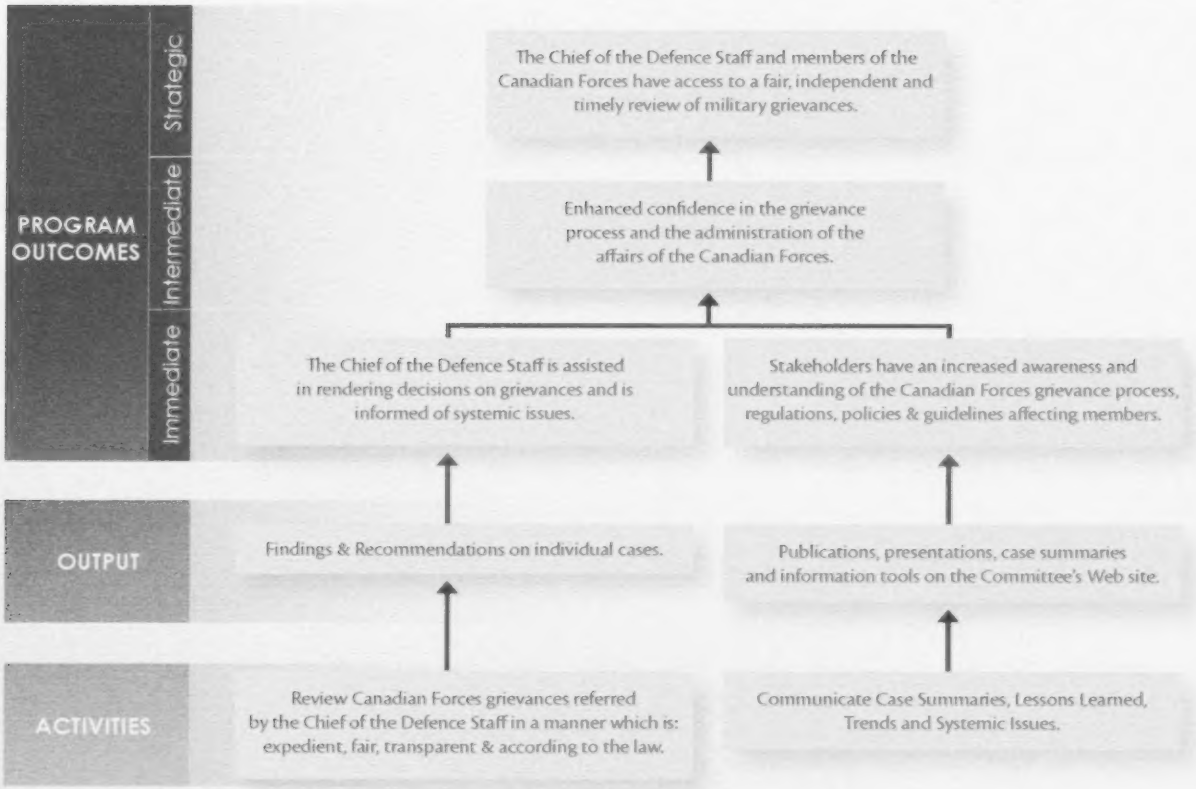
MGERC's Charitable Campaign Team holding the Leaders, Friends and Stars Award, as well as the Pledge Rate Award

RECOGNITION FROM THE GOVERNMENT OF CANADA WORKPLACE CHARITABLE CAMPAIGN

During the 2013 Achievement Celebration for the Government of Canada Workplace Charitable Campaign on November 28, the Committee was recognized as a leader in the Leadership Pledge Program as the *"organization to have the most increased participation rate and total contributions."*

ANNEXES

LOGIC MODEL


PROGRAM OUTCOMES
Strategic
Intermediate
Immediate
The Chief of the Defence Staff and members of the Canadian Forces have access to a fair, independent and timely review of military grievances.
Enhanced confidence in the grievance process and the administration of the affairs of the Canadian Forces.
The Chief of the Defence Staff is assisted in rendering decisions on grievances and is informed of systemic issues.
Stakeholders have an increased awareness and understanding of the Canadian Forces grievance process, regulations, policies & guidelines affecting members.
OUTPUT
Findings & Recommendations on individual cases.
Publications, presentations, case summaries and information tools on the Committee's Web site.
ACTIVITIES
Review Canadian Forces grievances referred by the Chief of the Defence Staff in a manner which is: expedient, fair, transparent & according to the law.
Communicate Case Summaries, Lessons Learned, Trends and Systemic Issues.

PLANNED SPENDING 2013-14
(IN DOLLARS)

Salaries, wages and other personnel costs	3,730,889
Contribution to employee benefit plans	615,596
Subtotal	4,346,485
Other operating expenditures	1,842,789
TOTAL PLANNED EXPENDITURES	**6,188,274**

31 December 2013
Actual expenditures will vary from the planned spending.

COMMITTEE MEMBERS AND STAFF

CHAIRPERSON

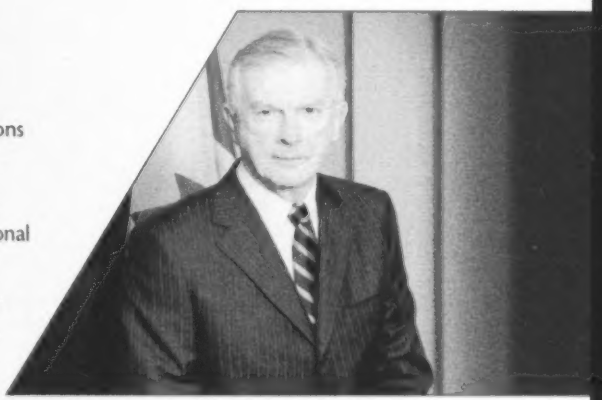
BRUNO HAMEL

Mr. Hamel was appointed Chairperson of the Committee on March 2, 2009. In December 2012, he was reappointed for a second four-year term. Mr. Hamel is a retired CAF officer with a lengthy and varied experience in military complaint resolution after many years spent as a senior grievance analyst and, later, as Director Special Grievances Enquiries & Investigations within the Director General Canadian Forces Grievance Authority. He has also served as Director General of Operations in the Office of the Ombudsman for the Department of National Defence and the CAF.

FULL-TIME VICE-CHAIRPERSON

JAMES PRICE

Mr. James Price joined the Committee in January 2004 as a team leader in the Operations Directorate, and was appointed full-time Vice-Chairperson in December of that same year. Mr. Price has an extensive experience as a CAF officer in all areas of military law, including the military justice system, administrative law, international law and operational law. After serving as Assistant Judge Advocate General for Europe, he was appointed military judge, presiding over cases involving both service offences and offences under the Criminal Code of Canada. Mr. Price retired on December 8, 2013.



PART-TIME VICE-CHAIRPERSON

DENIS BRAZEAU

Colonel (retired) Denis Brazeau was appointed as a part-time Member of the Committee on June 27, 2006, and subsequently as part-time Vice-Chairperson on February 9, 2007. Mr. Brazeau retired from the CAF after 30 years of service, which included many deployments abroad and a position as Chief of Staff of the Secteur du Québec de la Force terrestre. He was appointed an Officer of the Order of Military Merit by the Governor General in 2004.

THE COMMITTEE'S STAFF
DECEMBER 2013

CONTACT US

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VISIT THE COMMITTEE'S WEB SITE

The Committee publishes on its Web site summaries of the cases reviewed during the last three years, as well as recommendations on systemic issues affecting not only the grievor, but other CAF members.

These summaries and recommendations provide a wealth of information about the Committee's interpretation of policies and regulations, as well as on key issues and trends; the decisions of the final authority are also included.

Other Committee publications available on the Web site include bulletins designed for CAF members, as well as the latest issues of *Perspectives*, a publication intended for senior CAF decision-makers.